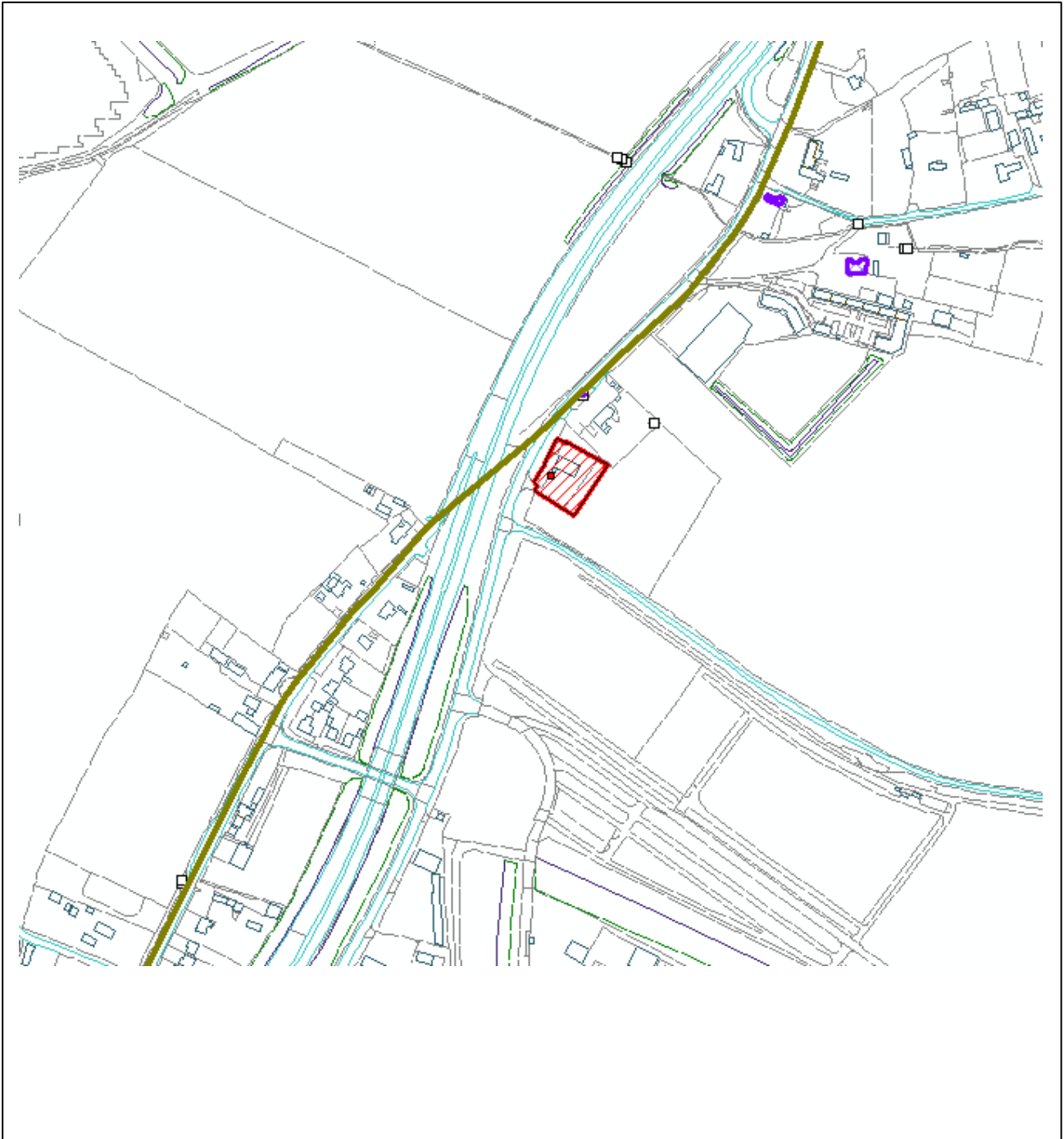


**PLANNING COMMITTEE**

**3<sup>rd</sup> December 2024**

**REPORT OF THE DIRECTOR OF PLANNING**

**A.2 PLANNING APPLICATION – 24/00885/FUL – TOTAL ROOFING SUPPLIES OLD IPSWICH ROAD ARDLEIGH CO7 7QL**



DO NOT SCALE

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<b>Application:</b>	24/00885/FUL	<b>Expiry Date:</b>	29th October 2024
<b>Case Officer:</b>	Oliver Ashford	<b>EOT Date:</b>	8 <sup>th</sup> November 2024
<b>Town/ Parish:</b>	Ardleigh Parish Council		
<b>Applicant:</b>	Mr Simon Patrick Earl		
<b>Address:</b>	Total Roofing Supplies Old Ipswich Road Ardleigh CO7 7QL		
<b>Development:</b>	Planning Application - Change of use of land for the siting of 2 no. containers, hardstanding, car parking area (retrospective planning consent) and retention of 2no. existing portacabin offices to serve the existing use.		

## 1. Executive Summary

- 1.1 This application is before the Planning Committee at the request of Cllr. Fairley.
- 1.2 The application seeks permission for the retention of 2No. existing portacabin offices to serve the existing roofing company on site. In addition, two further portacabins, a car parking area to the front of the site and the creation of a hardstanding area to the rear have all been implemented without express planning permission. This application seeks retrospective planning consent for all unauthorised elements and other than the works outlined above, no further additions are proposed as part of this application.
- 1.3 The proposed works are not considered to be harmful to the current prevailing character and appearance of area. The proposal will also not result in any significant impact to neighbouring amenities and is satisfactory in terms of highway safety. Accordingly the application is recommended for approval subject to conditions.

### Approval

<p><b>Recommendation:</b> Approval</p> <ol style="list-style-type: none"> <li>1) That the Head of Planning and Building Control be authorised to grant planning permission subject to conditions as stated at paragraph 9.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,</li> <li>2) The informative notes as may be deemed necessary.</li> </ol>
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### 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.

## 2. **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>

### **Ardleigh Neighbourhood Plan**

The Ardleigh Neighbourhood Plan was made in October 2024 and sets out the vision for development until 2033. The relevant policies pursuant to this application are outlined in section 3.1 below.

## 3. **Planning Policy**

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

### **National:**

National Planning Policy Framework December 2023 ([NPPF](#))

National Planning Practice Guidance ([NPPG](#))

### **Local:**

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 (adopted January 2021)

SP1 Presumption in Favour of Sustainable Development

SP3 Spatial Strategy for North Essex

SP5 Employment

SP6 Infrastructure and Connectivity

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

PP7 Employment Allocations

PP12 Improving Education and Skills

PP13 The Rural Economy

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation and Energy efficiency Measures

PPL13 Ardleigh Reservoir Catchment Area

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

DI1 Infrastructure Delivery and Impact Mitigation

Ardleigh Neighbourhood Plan 2020-2033

GDP General Approach to Development

EP Natural, Built & Historic Environment

TP Transport & Parking

Essex Minerals Local Plan Adopted July 2014

S8 Safeguarding mineral resources and mineral reserves

DM1 Development Management Criteria

Supplementary Planning Documents

[Essex Design Guide](#)

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

#### **4. Relevant Planning History**

93/00729/FUL	(Land adjoining Wick Lane and Old Ipswich Road, Ardleigh) Change of use to airfield for group 1 purposes [light aircraft] including part regrading of land with buildings and associated facilities	Refused	19.07.1994
21/00003/FUL	Retrospective erection of warehouse building for roofing trade supplies	Approved	08.03.2021
24/00885/FUL	Planning Application - Change of use of land for the siting of 2 no. containers, hardstanding, car parking area and retention of 2no. existing portacabin offices to serve the existing use.	Current	
95/00042/FUL	Construction of a building for the sale, repairs, maintenance of agricultural and horticultural machinery together with ancillary access road, car parking, storage and servicing (Variation of Condition No. 1 to extend the time limit for commencement for further 5 years)	Refused	14.03.1995
96/00885/FUL	Variation of the design of a building previously approved and partly implemented to be used for the sale, repair and maintenance of agricultural and horticultural machinery together with ancillary access road, car park, storage and servicing facilities	Approved	14.12.1998
04/01623/CMTR	Development of offices, industry, stores and metal recycling centre.	Withdrawn	18.02.2005

10/01270/FUL	Use of land as car dealership:- Erection of building for use as car show room, workshop and ancillary offices with associated car parking and landscaping, and construction of new access and upgrading of existing access.	Withdrawn	07.03.2011
11/00289/FUL	Use of land as car dealership:- Erection of building for use as car show room, workshop and ancillary offices with associated car parking and landscaping, and construction of new access and upgrading of existing access.	Approved	13.06.2011
13/30135/PREAPP	Erection of office, stores and vehicular garaging combined premises, including hardstanding and operational yard, for use as main (regional) depot for UK Power Networks.		28.10.2014
14/30367/PREAPP	Erection of warehouse and office totalling 1772sqm, access and parking.		31.10.2014
16/01036/FUL	Erection of 2 No. new workshop buildings and 7 No. office cabins with associated surfacing works to create new depot for the fitting/repairing of hire container units.	Approved	27.01.2017
17/00976/FUL	Erection of 2 No. new workshop buildings and 7 No. office cabins with associated surfacing works including formation of new site access off Wick Lane create new depot for the fitting/repairing of hire container units.	Withdrawn	23.10.2017
17/01777/DISCON	Discharge of conditions 04 (illumination Scheme), 05 (Working hours), 07 (access), 08 (Visibility Splays), 09 (Surface Treatment), 10 (Off Road Parking), 11 (HGV Parking and Turning Facilities) and 13 (Surface Water Drainage) of planning permission 16/01036/FUL.	Approved	22.01.2018
20/30024/PREAPP	Proposed logistics and distribution centre.	Support	

20/00594/FUL

Proposed hybrid application: Full Approved  
planning for food storage and 21.07.2023  
distribution facility and associated  
parking, logistics yard and offices.  
Outline planning to comprise further  
B8 distribution warehouses and  
offices.

## 5. Consultations

Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.

All consultation responses are available to view, in full (including all recommended conditions and informatives), on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

### **ECC Highways Dept**

**23.07.2024**

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. A previous site visit was undertaken in conjunction with an earlier planning application. It is noted that no new or altered means of access is proposed and the proposal is for the retention of two existing portacabin containers and the installation of an additional two portacabin containers, while the application is similar to earlier planning application, 21/00003/FUL that was previously acceptable to the Highway Authority. The introduction of two additional portacabins should not give rise to a significant increase in vehicle movements to and from the site or result in a material change in the character of the traffic in the vicinity of the site, 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. There should be no obstruction above ground level within a 2.4-metre-wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be retained and kept free of any obstruction at all times.

Reason: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety in accordance with policy DM1.

2. Prior to installation, the areas within the site identified for the purpose of loading/unloading/reception and storage of materials and manoeuvring shall be provided clear of the highway and retained thereafter for that sole purpose.

Reason: To ensure that appropriate loading / unloading facilities are available in the interest of highway safety in accordance with policy DM1.

3. Prior to installation, a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed and maintained free from obstruction within the site and retained at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted

as County Council Supplementary Guidance in February 2011 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](mailto: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.

**ECC Highways Dept**

**18.11.2024**

I have had a look at my recent recommendation and as you say, as this is a retrospective application, conditions 2 and 3 are affected by this. Based on the Parish Council comments if there are any outstanding conditions from the previous approved application it would be beneficial to reimpose these, possibly with a time limit (if that is possible) so they don't drift again as per the previous application.

Looking at the previous recommendations 3,4,5,6 & 7, it appears 3 is catered for, as they have parking at the front and this was highlighted on the latest drawing, submitted with application: 24/00885/FUL and is not changing. While 7 relates to the gates at the entrance, (albeit these need to be set back a minimum distance of 20 metres from the edge of carriageway) and these are set back from the carriageway and open inwards, based on google maps. So, it appears conditions 4,5 and 6 need to be reimposed.

## **6. Representations**

### **6.1 Parish Council**

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

Previous conditions were not complied with and that portacabins on site have remained despite assurances that the whole site would be vacated. This is alluded to in the Planning Application as below.

'From our previous conversation, the company had intended to move to another site due to the anticipated granting of the new distribution centre for Surya Rice. I understand that there was a delay in signing the legal agreements, but the decision has now been issued, and the containers have remained in place. Additionally, I am aware that the decision is subject to an ongoing Judicial Review (JR), which could take a significant amount of time to resolve through the legal system. Therefore, I must request that a new permission be applied for the

retention of the containers. You may wish to apply for temporary permission to cover the time period until the company is able to relocate, or, of course, you may wish to apply for them to be retained permanently. If you could please ensure that a planning application for the retention of the containers connected with the company is submitted by the end of May. If you have any queries in the meantime, please do not hesitate to contact me directly.'

Application for Planning Permission- Details of Pre-Application Advice Received'

Our Parish Council opposes the granting of permission for the permanent retention of both the portacabins which were not included in the earlier application, and the new portacabin – located within an already inadequate parking area. We object to other changes seeking retrospective permission such as changes to boundaries and fencing which may encroach on Highways land.

Our Council has serious ongoing concerns about the highways safety aspects of the operations on this site. The entrance to the site is on the Old Ipswich Road, which is subject to the national speed limit, and is very close to the busy junction with Wick Lane. We have had regular reports of HGV and other vehicles accessing the Total Roofing business parking on the street and causing dangerous blind spots for vehicles using both Wick Lane and Old Ipswich Road. We raised concerns about highways safety in the original retrospective application in 2021 and the level of perceived danger has not abated since that time.

Double red line parking restrictions have recently been extended along the Old Ipswich Road around the entrance to the site, but the problems have continued. At the very least we would wish to see a further planning restriction to limit all on-road parking for all users of this site and for Essex Highways and the North Essex Parking Partnership to be asked to specifically comment on the safety aspects of the entrance and provide any recent data on breaches of parking restrictions in this location.

We note that there were a number of conditions attached to the previous retrospective permission 21/00003/FUL which related to parking and access. These do not appear to have been properly implemented, which raises concerns about whether future conditions would be met.

'3 - All parking must take place within the site boundaries. Within 1 month of the date of this decision a parking plan shall be submitted to and approved in writing by the Local Planning Authority. This parking plan shall be retained for the that sole purpose for the lifetime of the development. The levels of parking shall adhere to a B2 General Industrial Use as detailed in the Essex Parking Standards 2009. The vehicle parking area shall be hard surfaced, sealed and if required marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority. Reason - To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided.

4 - There should be no obstruction above ground level within a 2.4-metre-wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be retained and kept free of any obstruction at all times. Reason - To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety.

5 - The areas within the site identified for the purpose of loading/unloading/reception and storage of materials and manoeuvring shall be provided clear of the highway and retained thereafter for that sole purpose. Reason - To ensure that appropriate loading / unloading facilities are available in the interest of highway safety.



6 - Within 1 month of the date of this decision a vehicular turning facility shall be submitted to and approved in writing by the Local Planning Authority. The turning facility shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose. Reason - To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

7 - As per previous application: 17/00976/FUL, any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 20 metres from the back edge of the highway. Reason - To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the highway in the interest of highway safety'.

We are aware of numerous complaints since the above permission was granted and since the double red lines were put in place and can provide photographs and testimonials if required.

We have been aware of a new building and business operations on this site since at least 2020. Building work and then trading began without any planning permission. In the intervening years there have been applications for retrospective permission, including this one, enforcement complaints, then assurances that the site will be vacated and now an application to continue permanently. We are disheartened by the reliance of retrospective permission and the apparent disregard for the conditions applied. We are particularly concerned that the site and its access is not suitable for the scale of the current operations and poses a serious safety risk to highways users.

We are also aware of a S106 agreement dated 16th March 1990 regarding this site (relating to application TEN/1157/89) which we understand placed restrictions on the future / change of use of the site to retain its agricultural connections. We would ask that this document be reviewed to ensure that there has not been a breach of the legal agreement and that a further change of use application should have been included before this business started operating on this site.

Given the history of this site and the ongoing material planning concerns, we would ask that the decision be made by the Planning Committee. We are copying our District Councillor to confirm that we would wish for this application to be called in to Committee.

*Officer comment: All the above issues will be covered and where relevant, addressed in the 'Assessment' section below.*

Officer Note: In Summary, Ardleigh Parish Council objects to the proposal for several reasons:

1. Non-compliance with previous conditions: The council highlights that portacabins were supposed to be vacated but remain on-site despite assurances, suggesting a failure to meet planning conditions. This matter would be the subject of separate enforcement action if necessary and is not material to the merits of the proposal made for determination.
2. Retrospective permission concerns: The council opposes granting permanent retention of portacabins and other changes (e.g., fencing and boundary alterations), which were not included in earlier applications. These changes may also encroach on highway land. This is not a judgement on the merits of the proposal and the applicant is entitled to make the application for change of use and associated works without penalty or prejudicial judgement on being retrospective.

3. Highway safety issues: There are ongoing concerns about the safety of the site's access on the Old Ipswich Road, especially near a busy junction with Wick Lane. Reports of HGVs and other vehicles parking on the street have caused dangerous blind spots. Despite recent parking restrictions, the issues persist. While this may be the case and if these are vehicles in association with the use, these matters in themselves are not within the control or scope of the Local Planning Authority to manage or enforce as offences in the highway and should be forwarded to the Highways Authority. The Local Planning Authority is required to consider all other legalisation would be fully complied with in the planning judgement.
4. History of non-compliance: The council is frustrated by the site's ongoing use without planning permission since 2020, with multiple retrospective applications and enforcement complaints, and concerns about the scale of operations being unsuitable for the site. While noted, it is only the merits of this application that should be considered.
5. S106 Agreement concerns: The Parish Council requests a review of a 1990 S106 agreement, which may place restrictions on the site's use, to ensure no breach has occurred and that a change of use application should have been submitted. This is a separate matter, but in terms of this application the application is for change of use and associated works to serve the existing use that is not defined and shall be the lawful existing use. On review of the S106, the obligation has two requirements
  - A) The site and the building comprised in the proposed development shall only be used for the sale, repair and maintenance of agricultural and horticultural machinery.
  - B) The retail floorspace within the building comprised in the proposed development shall not exceed 500 sqm (Officer Note: only applies to building and not cabins that are not buildings)

It is unusual to have use restricted by obligation rather than planning condition. In effect this permission in 1990 and agreement as been superseded by 21/00003/FUL that approved retrospective erection of warehouse building for roofing trade supplies 8<sup>th</sup> March 2021 for the site. Beyond the description of development, the site and building is for roofing trade supplies and is not restricted in use or permitted development by condition or obligation.

It is normally considered that the 1990 obligation falls away as the use and permission it applies to has been superseded, but there is an argument that it may still remain. If this was the case, this would be conflict with the approved supplies use granted. If this was the case it is considered unlikely to be enforced reasonably as the council has granted the use under 21/00003/FUL that has been implemented or a simple deed of variation agreement would unlikely be resisted given the planning permission for the supplies use has been granted. However, this is not a matter for consideration for this application as the proposal and extension of area is to serve the existing use without definition and if this either agricultural repair or supplies these have both been agreed by the council.

## **7 Assessment**

### **Site Description**

- 7.1 The application site is located on the eastern side of Old Ipswich Road, close to the junction with Wick Lane, Ardleigh and is rectangular in shape. The site measures approx. 0.24 hectares in land area with a frontage of approx. 48 metres and a maximum depth of approx. 45 metres. The site is used by a roof tiling company for the storage and retail of these

products.

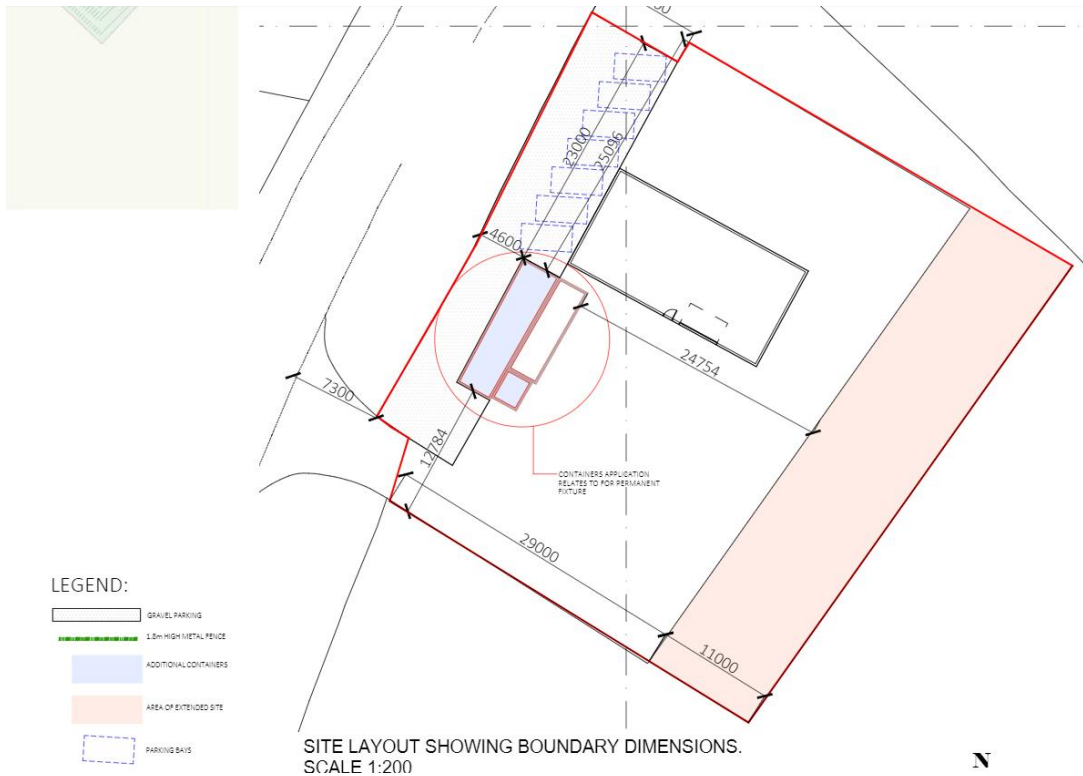
- 7.2 At present on site there is a large warehouse building storing the tiles and machinery, two portacabin buildings stacked on top of each other used for Office space, a further two single storey portacabins which are a recent additions added to the side and rear elevation of the previous portacabins, and an area of extended hardstanding to the rear of the site with a depth of approximately 11m, extending across the full width of the site. Within the site there is an array of related building supplies. This is within a fenced enclosure boarding the site. This palisade fencing is 2 metres in height as are the front gates. There is a gap of approximately 12m from the western boundary and Old Ipswich Road to the red line entrance to the site.
- 7.3 Parking occurs within an undefined new gravelled area along the western boundary and provides parking for approximately 7 vehicles.
- 7.4 To the north of the site, there are further forms of sporadic commercial development along Old Ipswich Road. Further to the south of the site (along Old Ipswich Road) there is a combination of quarrying and a mixture of warehouse and commercial development with sporadic residential pockets further to the south-west. The A12 (part of the strategic road network) dominates the landscape both visually and audibly. As a result of the above the area has a truly mixed character but commercial uses pre-dominate.

### Planning History

- 7.5 The application site is subject to a fragmented and complex planning history and has been operating in breach of planning conditions imposed on planning permission 21/0003/FUL. The current application before members seeks to regularise unauthorised elements and some of the conditional breaches.
- 7.6 Below highlights the approved layout under previous application reference 21/0003/FUL and the alterations that have occurred since this approval, subject to this current application, followed by an indicative superimposed plan.



Approved Block Plan – 21/00003/FUL



Current application 24/00885/FUL



Superimposed indicative plan highlighting extent of proposed changes

## Proposal

7.7 The application seeks planning permission for:

- Retention of 2no. existing portacabins (Hereafter referred to as Portacabins 1&2) on site stacked vertically
- Retrospective addition of 2no. further portacabins (Hereafter referred to as Portacabins 3&4) attached to the existing.
- Extension of hardstanding on site to the north and east
- Dedicated parking area to the west of the site for approximately 7 vehicles

Portacabins 1 & 2 were in situ during the previous 21/00003/FUL application consideration.

Condition 8 of this permission sought for their removal following the granting of consent as follows:

*8. Notwithstanding the details submitted on the approved plans, the two portacabin buildings are not included in this application and do not benefit from planning permission. Unless otherwise agreed in writing by the local planning authority, within 6 months of the date of this decision, the two portacabin buildings stacked on top of each other, shall be removed from site. Reason - In the interests of visual amenity and good design.*

7.8 Condition 8 was not complied with and the commercial operation has continued on site making use of these structures, they have therefore taken on a degree of permanence and this application seeks for their retention.

7.9 The proposal therefore seeks to retrospectively regularise all unauthorised works on site with no proposed additions.

## Principle of Development

7.10 Paragraph 88 of the National Planning Policy Framework (NPPF) (2023) states planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings.

7.11 The application site is located outside of a defined Settlement Development Boundary as defined by Section 2 of the Tendring District Local Plan 2013-2033, Policy SPL1. Policy SPL2 states that Outside of Settlement Development Boundaries, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in this plan.

7.12 Further, Paragraph 5.62 of the Ardleigh Neighbourhood Plan (2024) recognises that there are several business parks, notably around the Old Ipswich Road area offering units for small and medium sized enterprises of various sorts.

7.13 The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development; economic, social and environmental. In this case, the expansion of the existing commercial use will have a moderate positive impact on the local economy. With regards to the social impact the site is situated towards the edge of Colchester, where there is easy access to the main road network (A12 and A120) and there are bus stops in the nearby area which are easily accessible from the application site. The environmental role is about contributing to, protecting and enhancing the natural built and historic environment. The further extension of the site has resulted in the loss of agricultural land. The Natural England Agricultural Land

Classification map does not specifically layer the application site, however the land immediately to the south (of Wick Lane) is grade 2 and grade 3 agricultural land. Based on this it would be reasonable to assume that the area to the rear that has been incorporated into the site comprises grade 2 agricultural land (where Grade 1 is best quality and grade 5 is poorest quality). The area of land that has been incorporated into the site is fairly modest and the loss of agricultural land for food production is therefore not significant. Moreover, a much larger area of land (which includes the application site) benefits from planning permission for a large warehouse development. The neighbouring site to the north is also used for commercial purposes and Old Ipswich Road has a number of commercial and leisure uses – these elements weigh further in favour of the scheme insofar as the principle of the development is concerned.

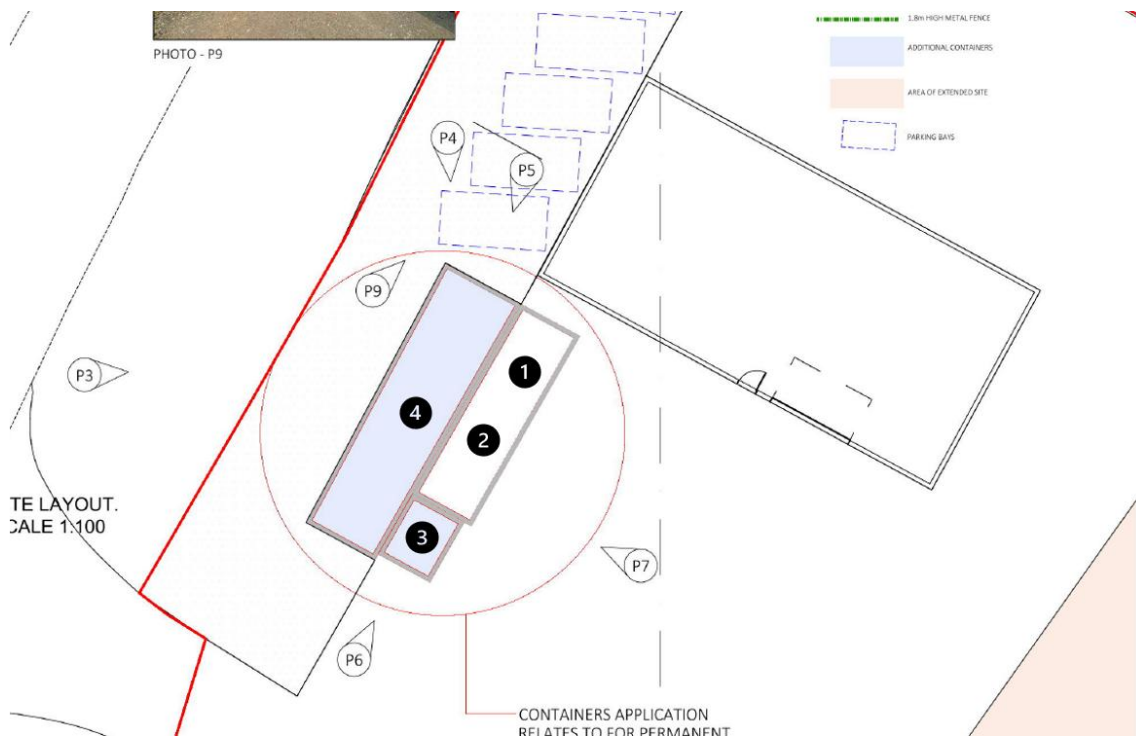
7.14 For the above reasons it is considered that the principle of development is acceptable subject to the detailed considerations set out below.

### Design & Appearance

7.15 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

7.16 Paragraph 135 of the NPPF requires that developments are visually attractive as a result of good architecture, are sympathetic to local character and history, including the surrounding built environment, function well and add to the overall quality of the area, and establish or maintain a strong sense of place.

7.17 Local Plan Policy SP7 seeks high standards of urban and architectural design, which respond to local character and context. Local Plan Policies SPL3 and LP4 also require, amongst other things, that developments are designed to high standards and which, together with a well considered site layout that relates well to its surroundings.



7.18 All four containers are of a functional design as is determined by their very nature. The surrounding area is characterised by a mixture of functional and utilitarian warehouse and commercial buildings. Approximate dimensions are as follows:

Portacabin 1 – Ground floor level

Height – 2.76m

Width – 9.80m

Depth – 3.06m

Portcabin 2 – First floor level

Height 2.35m

Width – 9.80m

Depth – 3.06m

Combined height of Portacabins 1 & 2 – 5.11m

Portacabin 3

Height – 2.55m

Width – 3.10m

Depth – 2.60m

Portacabin 4

Height – 2.76m

Width – 12.30m

Depth – 3.90m.

- 7.19 All portacabins are used in connection with the existing business on site and provide an office and storeroom facilities. They are a mixture of grey colour pallettes with a steel outer wall, steel roof and galvanised steel floor frame.
- 7.20 The expanded hardstanding used for storage and business operations and car parking area use a mix of concrete and gravel, this is typical of the commercial nature of the business and the surrounds and is not considered so harmful as to refuse planning permission.
- 7.21 In accordance with the above National and Local policies, the existing and the existing portacabins are therefore not considered to be out of character with the area in terms of design and appearance and are considered to comply with both the Framework and the TDLP.

Landscape Character

- 7.21 The first bullet of relevant Policy SP7 states that new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 Part B criterion c) states that development must respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Amongst other things, criterion d) of Part B requires that the design and layout of development maintains or enhances important existing site features of landscape value.
- 7.22 Paragraph 7.3.3 of the Section 2 Local Plan states that as a largely rural area, Tendring District's countryside is one of its main assets and maintaining an attractive rural environment is important to the quality of life experienced by both residents and visitors. It can also be an important consideration for the location of some businesses and help to expand the tourist economy and related services.
- 7.23 Policy PPL3 is criteria based, and states that the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance, including to:

- a) *estuaries, rivers and undeveloped coast;*
- b) *skylines and prominent views including ridge-tops and plateau edges;*
- c) *traditional buildings and settlement settings;*
- d) *native hedgerows, trees and woodlands;*
- e) *protected lanes, other rural lanes, bridleways and footpaths; and*
- f) *designated and non-designated heritage assets and historic landscapes including registered parks and gardens.*

- 7.24 In addition, new development within the rural landscape should minimise the impact of light pollution on the site and its surroundings, in order to protect rural amenity and biodiversity.
- 7.25 The immediate character of the area is of mixed commercial uses with significant areas of built form and hardstanding in relation to these uses. However, to the east of the site is open countryside and therefore due regard must be given to the impact of the proposals on the landscape.
- 7.26 As alluded to earlier, it should be noted that planning permission was granted for a food storage and distribution facility and associated parking, logistics yard and offices (20/00594/FUL) in July 2023. This planning permission relates to land immediately surrounding the site and including the site itself. The bulk and scale of the warehouse building approved under the above planning reference number is very substantial in relation to the proposals before members and whilst this permission is yet to be implemented, it is still extant and it is therefore likely that this permission will, in time, be implemented.
- 7.27 Therefore whilst not yet implemented, the above scheme is a significant material consideration and the surrounding landscape immediately beyond the site is proposed to be altered significantly. Officers do not consider that the proposals as submitted provide significant harm to the landscape and for the reasons set out above, and specifically due to the site specific circumstances, officers consider that the proposals accord with both National and Local Policy in relation to Landscape character.

#### Highway Safety/Parking

- 7.28 Paragraph 114 of the NPPF states that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users.
- 7.29 Policy CP1 of the Local Plan states that 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.
- 7.30 Essex County Council (ECC) as Highway Authority have been consulted as part of this application, they state that the introduction of two additional portacabins should not give rise to a significant increase in vehicle movements to and from the site or result in a material change in the character of the traffic in the vicinity of the site. They have clearly given due regard to the fact that no new or altered vehicular access is proposed. ECC Highways have reached their position subject to the imposition of certain conditions (covered below).
- 7.31 Representations from Ardleigh Parish Council refer to a number of highway conditions imposed on the previous 21/00003/FUL consent which have not been complied with.
- 7.32 Officers note these comments and have evaluated and enhanced the responses received from the Highway Authority (see Section 5 of this report) by reviewing which of the previous conditions are relevant, necessary and reasonable in accordance with the tests set out in the NPPF. Officers are therefore proposed Conditions 2, 3, 4 & 5 in relation to Highways matters



below based upon the expanded site as proposed. This is to in order to mitigate any potential harm.

- 7.33 The proposal is set well back from the public highway, and subject to the recommended conditions, it is not envisaged that the alterations and expansion would give rise to a significant increase in vehicle movements to and from the site or result in a material change in the character of the traffic in the vicinity of the site, therefore the proposals are acceptable from a highway safety point of view subject to appropriate conditions.

#### Impact on Amenity

- 7.34 Paragraph 135 of The Framework maintains that policies and decisions should result in new development that creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy SPL3 seeks new development that does not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 7.35 The site is in a semi-industrial area with a mix of commercial non-residential uses in the immediate vicinity. The A12 Dual Carriageway is located immediately to the west of the site beyond Old Ipswich Road with associated background noise. There are no residential uses within the vicinity of the site with the closest being on the opposite side of the A12 to the west on Turnpike Close. For these reasons it is not considered that the proposals would have an adverse impact on the amenity of the neighbouring properties.

#### Habitats, Protected Species and Biodiversity Enhancement

- 7.36 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. In the event of an approval an informative can be imposed strongly encouraging the applicant to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Therefore the development on balance, with consideration of the impact of the development and baseline situation on site, is considered likely to conserve and enhance biodiversity interests.

- 7.37 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. This excludes applications for Listed Building Consent, Advert Consent, Reserved Matters, Prior Approvals, Lawful Development 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). This proposal involves a habitat area of greater than 25sqm considered to have previously been an agricultural field and is therefore

applicable for Biodiversity Net Gain (BNG). A condition is suggested below in accordance with the Council's position on Biodiversity Net Gain.

#### 7.38 Protected Species

In accordance with Natural England's standing advice the proposed development 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.

7.39 In accordance with the overarching duty outlined above, subject to condition, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

#### Other Considerations

7.40 In the interests of amenity to reduce the impact of night time illumination on the character of the area and in the interests of biodiversity, officers consider that lighting condition is both reasonable and necessary in accordance with the NPPF tests and this has been recommended accordingly.

### **8 Conclusion**

8.1 In conclusion, the existing site currently is operating at an unrestricted level and this application will ensure that the retrospective changes are regularised accordingly. Officers consider that there is no significant landscape impact because of the current enclosure taking into account the surrounds and extant planning permissions. If approved, the proposals will ensure highways impacts are adequately and safely controlled. There is no further harm due to the lack of other constraints on site. Subject to conditions, it is considered that the proposal is consistent with the National and Local Plan Policies identified above. In the absence of material harm resulting from the proposal the application is recommended for approval.

### **9 Recommendation**

9.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives

#### 9.2 Conditions and Reasons

##### 1 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. TRS.01\_100 – Location Plan, Block Plan & Site Layout Plan. Received 03.09.2024

Drawing No. TRS.01\_101 – Photo Reference Plan and Photos – Received 03.09.24

Drawing No. TRS.01\_102 – Proposed Floor Plans and Elevations – Received 03.09.24

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.

2. **CONDITION:** There should be no obstruction above ground level within a 2.4 metre wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site entrance (taken to be 12 metres in depth from the nearside edge of the metalled carriageway). Such vehicular visibility splays shall be provided before the hereby approved road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

REASON: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety

3. Within 3 months of the date of this planning decision a zoning plan shall be submitted to and approved in writing by the Local Planning Authority which indicates the areas within the site identified for the purpose of loading/unloading/reception/parking and locations for the storage of materials, including areas for the manoeuvring of vehicles as well as a clear vehicular turning facility and maximum storage heights. All indicated areas shall be retained thereafter for those sole purposes for as long as the development and use of the site exist.

Reason: To ensure that appropriate loading / unloading facilities are available in the interest of highway safety.

4. **CONDITION:** There shall be no gates restricting vehicular access at any time, unless they are set back a minimum of 20 metres from the back edge of the adopted metalled highway. Any current provision of gates in conflict with this condition shall be removed within 6 months of this decision.

REASON: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the highway in the interest of highway safety.

5. **CONDITION:** Notwithstanding the provisions of the Town & Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) there shall be no gates/fence and/or other means of enclosure installed across the site unless details are first agreed, in writing, by the local planning authority. Any gates to be erected on site that may be approved, shall only open into the site and not over any area of the public highway at any time.

REASON: In the interests of highway safety.

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

6. **CONDITION:** Prior to the erection/installation of any floodlighting or other means of external lighting at the site, details to include position, height, aiming points, lighting levels and a polar luminance diagram shall be submitted to and approved, in writing, by the Local Planning Authority. The lighting shall be carried out and retained as may be approved. There shall be no other means of external lighting installed and/or operated on/at the site except that approved.

REASON: In the interests of amenity to reduce the impact of night time illumination on the character of the area and in the interests of biodiversity.

### 9.3 Informatives

#### Positive and Proactive Statement

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

## 10 Additional Considerations

### Equality Impact Assessment

- 10.1 In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic\* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic\* and those who do not, including tackling prejudice and promoting understanding.
- 10.2 It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation

to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

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

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

### Human Rights

- 10.4 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 10.5 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 10.6 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

### Finance Implications

- 10.7 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.

## **11. Declaration of Interest**

Please refer to the minutes of this meeting, which are typically available on the councils website which will be published in due course following conclusion of this meeting.

## **12. Background Papers**

- 13.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.