

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	NH	14/01/2025
EIA Development - Notify Planning Casework Unit of Decision	N/A	14/01/2025
Team Leader authorisation / sign off:	JJJ	15/01/2025
Assistant Planner final checks and despatch:	ER	16/01/25

Application: 24/01402/FUL **Town / Parish:** Ardleigh Parish Council

Applicant: Mr M Woods

Address: Yaffle Crown Lane North Ardleigh

Development: Planning Application - Retrospective change of use to residential curtilage and the erection of a holiday lodge in association with Yaffles

1. Town / Parish Council

Ardleigh Parish Council Ardleigh Parish Council does not object to the proposed holiday lodge and associated infrastructure.
The Council requests that a condition be placed stating the lodge is to be used only for the purpose stated on the application form, a self-contained holiday lodge with parking for one car, and may not be used for current or future conversion to residential or dwelling purposes.

2. Consultation Responses

Tree & Landscape Officer The application site is not within the Ardleigh Conservation Area and
10.10.2024 is not affected by any Tree Preservation Orders (TPO's).

Part of the land is open grassland and a large part, including around the lake, is well populated with a mixed age range of young, early mature and mature trees.

The position of the proposed holiday lodge is such that no trees or other significant vegetation will need to be removed or will otherwise be adversely affected by the proposed development

It may not be necessary for the applicant to submit a full Arboricultural Impact Assessment (AIA) however they will need to show how retained trees will be physically protected for the duration of the construction phase of any planning permission that may be granted. This information should be in accordance with BS5837 2012: Trees in relation to design, demolition and construction: Recommendations.

In terms of its potential impact of the proposed development on the local landscape it should be noted that the application site is situated in the northwestern corner of The Bromley Heaths Landscape Character Area (LCA) as defined in the Tendring District Council Landscape Character Assessment.

The land is just to the north of the Ardleigh Valley System LCA. Crown Lane North and has a strong rural character. The influence of the

mineral extraction operations on the adjacent land have a significant influence the character and appearance of the area.

As the site is currently benefits from a good level of screening and it not overlooked from a public place the development proposal will not result harm to the visual qualities of the local landscape.

Regarding the impact of the proposed development on the character of the local landscape it is considered that, taking into account the scale and position of the proposed development the introduction of an additional residential/holiday use building in the countryside will, to a relatively minimal extent, degrade the character of the countryside.

It appears that access to the site will be by way of the existing vehicular access to the site and in this regard, there will be no change, in landscape terms to the character or use of Crown Lane North.

ECC Highways Dept
07.10.2024

The proposed planning application for a single 1bed holiday let is considered acceptable due to the long-established access, which serves an area with low traffic volumes and low vehicle speeds. There are no identified safety concerns associated with the current use. However, any further development beyond this would need to demonstrate that the access meets modern highway standards to ensure continued safety and efficiency.

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority.

Informative:

- i. There shall be no discharge of surface water onto the Highway.
- ii. 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

Essex County Council
Ecology
29.10.2024

No objection subject to securing
a) a proportionate financial contribution for delivery of mitigation for predicted recreational impacts in line with Essex Coast RAMS
b) biodiversity mitigation and enhancement measures

Summary

We have reviewed the Preliminary Ecological Assessment (ACJ Ecology, July 2024), as well as Magic Maps (Magic Map Application (defra.gov.uk) and aerial photographs to help identify the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures.

We note that the Ecology report does not include a reference to the development site lying within the Zone of Influences for the Essex Estuaries SAC, Colne Estuary (Mid Essex Coast Phase 2) SPA & Ramsar site, Stour & Orwell Estuaries SPA & Ramsar site and Dengie

SPA & Ramsar site. This residential development is relevant to predicted impacts, in combination with other plans and projects on the Habitats sites listed above.

The LPA is therefore advised that a proportionate financial contribution should be sought for this residential development within the ZOIs specified, which will need to be secured by legal agreement or via a condition of any consent. The LPA will also need to prepare a bespoke HRA Appropriate Assessment to determine any adverse effect on site integrity and secure the developer contribution for delivery of visitor management measures at the above Habitats sites in line with the Essex Coast RAMS. This mitigation is needed to avoid impacts from the development in combination with other plans and projects.

We have also reviewed the smalls site metrics - statutory biodiversity metric calculation tool (completed by Andy May, July 2024) and the Biodiversity Assessment (ACJ ecology, July 2024).

We are satisfied that there is sufficient ecological information available for determination of this application.

This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

We recommend that the following good practice mitigation measures should be followed to avoid potential impacts to protected and Priority species, including commuting bats and nesting birds.

Vehicles and site workers must be kept off of 'tall herb' areas or keep to a minimum, any stored materials to be located on hardstanding areas.

- Open excavations should be inspected prior to filling;
- Footings and concrete slabs should be poured during the morning to ensure it has hardened off prior to evening to reduce the risk of animals coming into contact with wet concrete;
- Any hand mixing of mortar or concrete should be on ply boarding over a tarpaulin which is folded over the boarding at the end of each day to prevent animals coming into contact;
- Any excess cement/concrete should be poured into a concrete skip, so it can then set to prevent animals coming into contact. Equipment must be cleaned off in a location to avoid pollution of the watercourse;
- Any construction materials should be stored on bare ground or stored off the ground on pallets;
- Any construction waste stored on site temporarily should be stored on bare/hard ground or in skips to prevent amphibians or reptiles from seeking refuge;

We therefore recommend that a precautionary working method statement for biodiversity during the construction period is secured by a separate condition of any consent.

We recommend a Wildlife Sensitive Lighting Strategy should be delivered for this scheme and secured by a condition of any consent to avoid impacts to foraging and commuting bats. This must follow the Guidance Note 8/23 Bats and artificial lighting (The Institute of Lighting Professionals & Bat Conservation Trust). In summary, it is highlighted that the following measures should be implemented for

the lighting design, which could be informed by a professional ecologist:

- Light levels should be as low as possible as required to fulfil the lighting need.
- Warm-White lights should be used preferably at 2700k. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
- If light columns are required, they should be as short as possible as light at a low level reduces the likelihood of any ecological impact. However, the use of cowls, hoods, reflector skirts or shields could also be used to prevent horizontal spill.
- Movement sensors and timers could be used to minimise the 'lit time'.

Additionally, no biodiversity enhancement measures for protected and Priority species are identified in the documents provided. We recommend that, to secure net gains for biodiversity, as outlined under Paragraph 180d of the National Planning Policy Framework December 2023, reasonable biodiversity enhancement measures will need to be provided. This could include bat, bird and insect boxes. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

With regard to mandatory biodiversity net gains, it is highlighted that we support the Biodiversity Net Gain Calculation Tool. Biodiversity net gain is a statutory requirement set out under Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990. We are satisfied that the pre-development baseline has been calculated appropriately, albeit the information should ideally be supported by a Habitat map in line with the biodiversity net gain planning practice guidance. As a result, a Biodiversity Gain Plan, as well as the finalised full Statutory Biodiversity Metric - Calculation Tool (including off-site measures or Statutory Credits), should be submitted prior to commencement as part of the biodiversity gain condition.

A Habitat Management and Monitoring Plan should be secured for off-site enhancements, as no significant on-site enhancements are proposed. This should be in line with the approved Biodiversity Gain Plan, with the maintenance and monitoring secured via legal obligation or a condition of any consent for a period of up to 30 years. The monitoring of the post-development habitat creation / enhancement will need be provided to the LPA at years 2, 5, 10, 15, 20, 25, 30 any remedial action or adaptive management will then be agreed with the LPA to ensure the aims and objectives of the Biodiversity Gain Plan are achieved.

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

Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013.

We recommend that submission for approval and implementation of the details below should be a condition of any planning consent.

Recommended conditions

1. PRIOR TO COMMENCEMENT: BIODIVERSITY MITIGATION METHOD STATEMENT

"No development shall take place (including any demolition, ground works, site clearance) until a Biodiversity Mitigation Method Statement for Protected and Priority species, including nesting birds, badger, hedgehog and amphibians, has been submitted to and approved in writing by the local planning authority.

The content of the method statement shall include the following:

- a) purpose and objectives for the proposed works;
- b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- c) extent and location of proposed works shown on appropriate scale maps and plans;
- d) timetable for implementation;
- e) persons responsible for implementing the works;
- f) disposal of any wastes arising from works.

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter."

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the as amended) and s17 Crime & Disorder Act 1998.

2. PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

"A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;
- c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

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

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2023 and s40 of the NERC Act 2006 (as amended).

3. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

"A lighting design scheme for biodiversity in accordance with Guidance Note GN:08/23 (Institute of Lighting Professionals) shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority."

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (as amended)

Optional condition - the Habitat Management and Monitoring Plan could be secured via planning obligation / biodiversity gain condition. However, if the LPA would like to secure these measures under a condition of any consent, the following condition could be implemented:

4. PRIOR TO COMMENCEMENT: HABITAT MANAGEMENT AND MONITORING PLAN (HMMP)

Prior to commencement of development, a Habitat Management and Monitoring Plan, in line with the approved Biodiversity Gain Plan, must be submitted to the planning authority and approved in writing.

The content of the Habitat Management and Monitoring Plan should include the following:

a) A management and monitoring plan for all off-site biodiversity net gain including 30-year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2,5,10,15,20,25 and 30 from commencement of development, demonstrating how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed.

The development shall be implemented in full accordance with the requirements of the approved Habitat Management and Monitoring Plan, with monitoring reports submitted to the council at the specified intervals.

Reason: To allow the development to demonstrate mandatory biodiversity net gain and allow LPA to discharge its duties under Schedule 7A to the Town and Country Planning Act 1990.

Biodiversity Gain condition

Natural England advises that the biodiversity gain condition has its own separate statutory basis, as a planning condition under paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990. The condition is deemed to apply to every planning permission granted for the development of land in England (unless exemptions

or transitional provisions apply), and there are separate provisions governing the Biodiversity Gain Plan.

Local planning authority are strongly encouraged to not include the biodiversity gain condition, or the reasons for applying this, in the list of conditions imposed in the written notice when granting planning permission. However, it is highlighted that biodiversity gain condition could be added as an informative, using draft text provided by the Secretary of State:

"Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Tendring District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed in paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply."

Environmental Protection
27.09.2024

Thank you for your consultation regarding the proposed development above. Please find Environmental Protections comments below:

Tree & Landscape Officer
14.11.2024

I have reviewed the above application and can confirm that Environmental Protection have no comments to make.

In terms of the information provided relating to the physical protection of retained trees the information is acceptable and sufficient to ensure that existing trees will not be harmed by the implementation of the proposed development.

3. **Planning History**

17/00290/FUL	Proposed one and a half storey extension to rear/south-east corner of dwelling.	Approved	26.04.2017
17/01489/FUL	Proposed dwelling, relocation of existing access, new landscape planting, part re-grading of existing lake edges, associated access drive and other works, provision of 2no. solar arrays.	Refused	06.12.2017
18/00196/LUPRO P	Replace current access point with new access 22 metres to the east.		16.03.2018

19/01176/FUL	Proposed dwelling, part re-grading of existing lake edges, 2no. solar arrays, associated works including new landscape planting and area of hardstanding.	Refused	24.10.2019
24/01402/FUL	Planning Application - Retrospective change of use to residential curtilage and the erection of a holiday lodge in association with Yaffles	Current	
17/01489/FUL	Proposed dwelling, relocation of existing access, new landscape planting, part re-grading of existing lake edges, associated access drive and other works, provision of 2no. solar arrays.	Refused	06.12.2017
19/01176/FUL	Proposed dwelling, part re-grading of existing lake edges, 2no. solar arrays, associated works including new landscape planting and area of hardstanding.	Refused	24.10.2019
20/00838/COUNO T	Conversion of an agricultural building into a dwelling.	Prior Approval Not Required	21.08.2020
24/01402/FUL	Planning Application - Retrospective change of use to residential curtilage and the erection of a holiday lodge in association with Yaffles	Current	
17/01489/FUL	Proposed dwelling, relocation of existing access, new landscape planting, part re-grading of existing lake edges, associated access drive and other works, provision of 2no. solar arrays.	Refused	06.12.2017
19/01176/FUL	Proposed dwelling, part re-grading of existing lake edges, 2no. solar arrays, associated works including new landscape planting and area of hardstanding.	Refused	24.10.2019
20/01677/FUL	Proposed ground mounted solar panels in 2 arrays.	Approved	19.03.2021

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.

In relation to housing supply:

The Framework requires Councils to significantly boost the supply of homes to meet the District's housing need. Paragraph 78 states that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of 5% to ensure choice and competition in the market for land, unless the Housing Delivery Test (HDT) demonstrates significant under delivery of housing over the previous 3 years - in which case a higher buffer is required.

On 12th December 2024 the Government published the Housing Delivery Test: 2023 measurement. Against a requirement for 1,466 homes for 2020-2023, the total number of homes delivered was 2,343. The Council's HDT 2023 measurement was therefore 160%, and a buffer of 5% is to be used when calculating the Council's five year land supply position.

The Council demonstrates its supply of specific deliverable sites within the Strategic Housing Land Availability Assessment (SHLAA), which is published annually. The most recent SHLAA was published by the Council in July 2024, and demonstrates a 6.26-year supply of deliverable housing sites against the annual requirement of 550 dwellings per annum set out within the adopted Local Plan, plus a 5% buffer. The SHLAA can be viewed on the Council's website: <https://www.tendringdc.gov.uk/content/monitoring-and-shlaa>

As a result, the 'titled balance' at paragraph 11 d) of the Framework does not apply to decisions relating to new housing development.

5. **Neighbourhood Plans**

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

Ardleigh Neighbourhood Plan

The site is located in the parish of Ardleigh and therefore the Ardleigh Neighbourhood Plan is relevant.

Any relevant policies will be set out below and will be considered as part of the officer assessment below.

6. **Relevant Policies / Government Guidance**

National:

National Planning Policy Framework December 2024 (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

PP8 Tourism

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation and Energy efficiency Measures

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

DI1 Infrastructure Delivery and Impact Mitigation

Supplementary Planning Documents

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

Biodiversity Net Gain Supplementary Planning Document June 2023 (DRAFT)

Essex Design Guide

Neighbourhood Plan

GDP General Approach to Development

EP Natural, Built & Historic Environment

TP Transport & Parking

7. Officer Appraisal (including Site Description and Proposal)

Site Description

The application relates to a large plot in a rural area to the south west of the village of Ardleigh and to the north east of Colchester. The site is situated on the northern side of Crown Lane North, well screened by mature hedges and trees. The site itself is formed of a grass meadow area and orchards within its southern and western areas and an area utilised for crop growing with the long-established barn in its northern corner which is the subject of this application.

The application site is well screened from the immediate neighbours with established hedges and trees and lies adjacent to a sunken lake formed from a gravel pit excavated in the 1940s. Immediately to the west of the site is a large, detached house (Trefoil) with substantial grounds backed to the west by an open field. To the east is a large house called Whinstones set within large grounds overlooking a lake, also a former gravel pit.

The site is not situated within a recognised Settlement Development Boundary within the adopted Local Plan 2013-2033.

Planning History

Planning permission was refused under planning reference 19/01176/FUL for the erection of a dwelling, part re-grading of existing lake edges, 2 no. solar arrays, associated works including new landscape planting and area of hardstanding. The proposal was refused as it failed to achieve the economic, social and environmental objectives of sustainable development and there are no public benefits or exceptional circumstances that outweigh the identified harm. The applicant took the application to appeal and the appeal was dismissed under appeal reference APP/P1560/W/19/3243760.

Prior Approval was not required under planning reference 20/00838/COUNOT for the conversion of an existing agricultural building into a two bedroom dwelling.

Proposal

This application seeks planning permission for the retrospective change of use of the land and the erection of a holiday lodge in association with Yaffle.

Assessment

1. Principle of Development

The site lies well outside the Settlement Development Boundary (SDB) for Ardleigh as shown in the adopted Tendring District Local Plan 2013-2033 and Beyond and is therefore located within the countryside for the purposes of applying adopted plan policy. The application site is located approximately 1.3 miles to the settlement development boundary of Ardleigh and approximately 1.9 metres to the built up area of Colchester.

Ardleigh is categorised as a Smaller Rural Settlement as defined in Policy SPL1. It is considered that these smaller rural settlements are the least sustainable necessitating reliance on the private car for journeys and the proposed development would extend far beyond the area planned to provide growth for this settlement.

Overarchingly, Policies SP1, SP3, SPL1 and SPL2 of the adopted Local Plan seek to direct growth to existing settlements in favour of the presumption of sustainable development. Specific to this development proposal, the relevant part of Policy SPL 2 states '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.

The NPPF (2024) promotes a strong, competitive economy stating that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt, whereby paragraph 85 of the Framework states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. In terms of supporting a prosperous rural economy, paragraph 88 states that planning policies and decisions should enable (a) the sustainable growth and expansion of all type of business in rural areas both through the conversion of existing buildings and well-designed new buildings, (b) the development and diversification of agricultural and other land-based rural businesses and (c) sustainable rural tourism...which respect the character of the countryside. Paragraph 89 adds that, "Planning policies and decisions should recognise that sites to meet business...needs in rural areas may have to be found adjacent or beyond existing settlements, and in locations that are not well served by public transport", adding that it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable, concluding that the use of previously developed land and sites that are physically well-related to existing settlements should be encouraged where suitable opportunities exist.

Policy PP8, Section 2 seeks to promote tourism within Tendring District whereby the policy states that the Council will generally support proposals that would help to improve the tourism appeal of the district to visitors subject to other relevant policies in the Local Plan. Policy PP8 also states 'to maintain and deliver a range of accommodation that meets the varying needs, demands and expectations of potential visitors to the Tendring District, proposals that involve the creation of visitor accommodation will be assessed based on policies set out in this Local Plan'. There is therefore high level support for proposals that will help to improve the tourism appeal of the district to visitors, however this is subject to other relevant policies in the Local Plan. The policies in the local plan regarding new development, including proposals for new residential floorspace (a holiday lodge is a form of residential floorspace) directs such development proposals mainly to areas inside settlement boundaries, or close to settlement boundaries.

The land which forms part of this application and shown within the red line boundary surrounds the existing dwelling known as 'Yaffle' and extends up to the 'pond'. The land is currently grassed land which is used as residential amenity. The land in question, to the east of 'Yaffle', does not appear to have formerly or recently been in use as agricultural use. Moreover, the area relates reasonably

well to 'Yaffle', therefore no policy conflict can be identified with policies SP7 and SPL3 of the Local Plan.

Therefore, insofar as the principle of development is concerned (and notwithstanding the high level support that policy PP8 offers), policies SP3, SPL1 and SPL2 direct development proposals of this nature to Settlement Development Boundaries. These key and most important policies (for determining the principle of development) therefore do not offer support for the proposal. This area of conflict will be returned to in the planning balance and conclusion section of the officers report. The principle of extending the residential curtilage is acceptable though.

2. Impact to Character of the Area

Paragraph 135 of the National Planning Policy Framework (NPPF) (2024) states that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place. Paragraph 187(b) of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Adopted Policy SPL3 Part A (b) requires that development relates well to its site and surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials.

Adopted Policy PPL3 confirms 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.

The proposed change of use of the land is considered to infill the current garden land. It is considered that the change of use will not materially alter the appearance of the site therefore having no impact or resultant harm to the landscape or rural appearance of this part of Ardleigh.

In terms of the holiday lodge, it is single storey in nature with a flat roof. The proposal will be constructed from hardie plank cladding in dark green with a mono pitch roof finished with dark green Claddco metal sheet roofing. In terms of the design of the proposed lodge, the supporting statement provides justification that the lodge will disappear into the landscape due to the land formation. The building has been designed with a low pitch roof comprising of a green roof with wild flowers and grass. Low elevation bushes will be planted on the top of the bank around the lodge to soften the appearance of the proposal. The proposed wall cladding will match the materials used within the barn 'Yaffle' and will be constructed to the north and east of the lodge with the south and west side of the lodge constructed of wood and stained to look like a barn.

The proposed development is sited to the north eastern section north eastern section of the site adjacent to the pond. Officers acknowledge that the site is currently well screened by existing field boundaries that are demarcated by established countryside hedgerows, and the development itself is of a relatively low-key nature that would not be particularly visible from any views beyond the confines of the site. The Councils tree and landscaping officer has no objections to the proposed works. Furthermore, the design of the lodge is such that they would assimilate well within the rural surrounds and are what would be expected in such a location.

Officers, therefore, raise no objection in relation to the design and impact to the character of the area.

3. Impact on Residential Amenity

Paragraph 135 of the National Planning Policy Framework (2024) confirms 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 users.

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 application is well contained and is set a significant separation distance apart from the residential properties located to the south and southwest of the site. Therefore, the only neighbouring property potentially impacted upon is that to the northwest, which is owned and occupied by the applicant. That notwithstanding, the development is sited approximately 66.5 metres apart and is low-key in nature; given this, Officers do not consider there to be significant harm in respect of the development appearing overbearing or resulting in a significant level of overlooking or loss of daylight/sunlight. It is noted the proposal would generate some vehicular movements that could generate a degree of noise pollution, but this is not considered to be to such a level that it would warrant recommending a reason for refusal.

4. Impact on Highway Safety

Paragraph 114 of the National Planning Policy Framework (2024) seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 115 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy SPL3 (Part B) of the Adopted Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate, and provision is made for adequate vehicle and cycle parking.

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

ECC Highways, upon consultation, have confirmed that from a highway and transportation perspective, the impact of the proposal is acceptable. One parking space is provided to serve the proposed holiday let and is located to the north west of the proposed development. Officers are content that the parking provision is sufficient so do not object on these grounds.

5. Foul Drainage

Paragraph 176 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 185 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

Policy PPL5 of Section 2 of the adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.

The accompanying documentation confirms that the proposed development is not intended to connect to a mains sewer. Instead, foul sewage will be disposed of by way of a bio digester, which will use the same system as the existing lodge.

6. Renewable Energy

Paragraph 117 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.

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.

The proposal includes for a development that has the potential to incorporate renewable energy features, albeit to a reduced extent given the nature of proposal.

The submission is accompanied by a supporting statement detailing that the holiday lodge will comprise of a green roof. Whilst there are no other details that accompany this planning application, given the nature of the development and its location, on this occasion officers are content that this information is sufficient. A specific condition requesting details of this is therefore not considered necessary.

7. 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 preamble to Policy PPL4 states that where a development might harm biodiversity an ecological appraisal will be required to be undertaken, and the potential for harm should be considered and addressed in any application. Policy SPL3, Part A criterion d), requires that the design and layout of development maintains or enhances site features, including ecological value. 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." This includes local authorities, which encompass local planning authorities (LPAs). Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and, after consideration, determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. While the Section doesn't explicitly state that planning decisions must contribute to biodiversity conservation, it's essential to consider the broader context of planning functions within the authority. Typically, LPAs play a crucial role in land use/development decisions, and these can have significant implications for biodiversity. In conclusion for decision making, it is considered that the LPA must be satisfied that the development would conserve and enhance. This development is subject to the general duty outlined above. On that basis a biodiversity enhancement strategy will be secured via condition. Such a strategy may look to include native planting strategies and insect friendly planting, wildlife-friendly infrastructure i.e. nesting boxes, bee bricks and habitat structures.

Therefore, the development with the inclusion of this condition, 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.

Protected Designated Habitats

This holiday accommodation development lies within the Zone of Influence. Based on the development type and proximity to European designated sites, the proposal falls outside the scope of the Essex Coast RAMS as part of the screening assessment, however, applications involving tourist accommodation could still potentially have recreational disturbance impacts (and other impacts) on designated sites. 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 holiday accommodation meeting those tests.

A Habitat Regulations Assessment has been completed for the proposal. The new development would be likely to increase the number of recreational visitors to the designated area and, in combination with other developments, it is likely that the proposal would have significant effects on the designated site. Prior to commencement of any development, a S106 Legal Agreement/Unilateral Undertaking will be sought to secure the necessary financial contributions for RAMS to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017. A planning condition is therefore considered reasonable and necessary to secure the S106 Legal Agreement/Unilateral Undertaking for the necessary financial contribution and this will be imposed on the grant of planning permission.

Protected Species

Given the nature of the application site, a previously grazed field now partially overgrown in places, enclosed by mature hedging and mature trees, there is a potential for wildlife and their habitats. In this case bats could use the land for foraging or commuting, the land could also provide habitats for breeding birds, reptiles, invertebrate and protected plants and a Preliminary Ecological Survey is required in order that the impacts to wildlife and their habitats can be properly assessed.

Policy PPL4 states that any proposed development on sites which may support protected species will require a relevant survey(s), undertaken by a suitably qualified ecologist. If protected species are present, a suitable mitigation plan will be required prior to planning permission being granted.

Paragraph 180 of the National Planning Policy Framework requires that planning decisions protect and enhance sites of biodiversity. Paragraph 99 of Circular 06/2005 states that "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision" it goes on to state "The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances".

National Planning Practice Guidance for the Natural Environment confirms that an ecological survey will be necessary if the type and location of development could have a significant impact on biodiversity and existing information is lacking or inadequate. Standing advice from Natural England confirms that if there is suitable habitat on the site to support protected species a survey is required. In this case the Natural England standing advice verifies that veteran trees, meadows, grassland

and pasture on the land or linked to the site (by similar habitat) or rough grassland, scrub and hedgerows on or next to the site as likely habitats for protected species.

Paragraph 180 of the Framework states planning decisions should contribute to and enhance the natural and local environment, by minimising impacts and providing net gains for biodiversity. Paragraph 193(a) of the NPPF confirms that in assessing planning applications where significant harm to biodiversity as a result of a development cannot be avoided, adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.

Adopted Policy SP7 requires that all new development should incorporate biodiversity creation and enhancement measures. Adopted Policy SPL3 Part A(d) includes that the design and layout of development should maintain or enhance ecological value.

Adopted Policy PPL4 states that proposals for new development should be supported by an appropriate ecological assessment, and where new development would harm biodiversity or geodiversity, planning permission will only be granted in exceptional circumstances, where the benefits of the development demonstrably outweigh the harm caused and where adequate mitigation or, as a last resort, compensation measures are included, to ensure a net gain, in biodiversity.

As part of this application, a preliminary ecological assessment has been provided as part of the submission. The assessment concludes that the likelihood of protected species is negligible and recommends that any lighting should minimise spill onto the surrounding landscape. It is also recommended that removing suitable habitats must be undertaken outside the bird breeding season.

ECC Place Services (Ecology) have been consulted on this application and have no objections subject to conditions requesting a proportionate financial contribution for delivery of mitigation for predicted recreational impacts in line with Essex Coast RAMs and other biodiversity mitigation and enhancement measures – these conditions are not all considered to meet the NPPF tests for planning conditions given the tests of necessary and reasonable in context with the current (and what is considered to be acceptable expansion of) residential use of the land that has no restriction of permitted development (and also not considered reasonable to impose any restrictions on the extended section of residential curtilage). It is not reasonable for example to restrict lighting that has not previously been restricted in this location before. While the proposal is a new building within the land, the increase in use is not considered to be significantly material beyond the current use to mean all recommended conditions are necessary to mitigate impact or otherwise reasonable against material planning consideration. The condition for monitoring of the BNG is considered reasonable to be dealt with under the BNG condition imposed by government.

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

Ardleigh Parish Council have made an observation on this application and do not object to the proposed development. The Parish Council requests that a condition can be imposed stating that the lodge is to be used only for a purpose stated on the application form, a self contained holiday lodge with parking for one car, and may not be used for current or future conversion to residential or dwelling purposes.

In response to Ardleigh Parish Council, a holiday occupancy condition has been imposed to this permission to restrict the use as holiday occupancy in relation to the dwelling 'Yaffle' only.

Three letters of objection have been received raising the following concerns (summarised below):

- Impact upon ecology and biodiversity

The concern above has been addressed within the officers report.

- Concerns in regards to drainage

The drainage in connection with the holiday lodge has been addressed within the report.

- Proposal will set precedent for future development

Every application is assessed on its own merit and has to meet national, local and neighbourhood planning policies.

- Privacy concerns

The neighbouring impact has been addressed within the officers report.

- Not a sustainable location - no footpaths, bus routes - reliant on a car

The concern raised above has been addressed within the principle section and the planning balance and conclusion section of the officers report.

9. Planning Balance and Conclusion

The application proposes a retrospective change of use of an area of land to the east of the main dwelling to residential curtilage, and the erection of a holiday lodge in association with Yaffles. The change of use to residential curtilage results in no harm and no policy conflict is identified in respect of this element. There is high level support for proposals that will help to improve the tourism appeal of the district to visitors in Policy PP8 of the Local Plan. However, the proposal, for what is effectively a new residential unit in the form of a holiday lodge, will result in conflict with Policies SP3, SPL1 and SPL2 of the Local Plan because the site in question is located well outside the settlement development boundary of Ardleigh. However, decision makers are duty bound by the Town and Country Planning Act 1990 to determine planning applications having regard to the relevant policies in the development plan whilst also having regard to other relevant material planning considerations. In this instance, the Council has the mechanism to restrict the use of the building as holiday occupancy only via a condition, however such a restriction will not fully address or overcome the clear policy conflict insofar as the council's settlement hierarchy is concerned. The Council can also consider whether it is reasonable and necessary to restrict the use of the building to be used incidental and ancillary to the dwelling 'Yaffle' during the times when it is not in use as a holiday lodge. Such a further restriction is considered reasonable and necessary because the lodge is proposed to be constructed within the extended residential curtilage of Yaffle (and should this application be approved), and therefore in effect tying the building (hereby approved) to the dwelling known as Yaffle, any sustainability harm through the comings and goings of tourists in an area not considered suitable for new residential floorspace is therefore tapered as a result of these conditions.

No objections are raised in regard to the impact to the character of the area or to the impacts to neighbouring amenities, and ECC Highways and ECC Ecology raise no objections. Taking the above into consideration, the application, subject to conditions, is considered to be compliant with local and national planning policies, and is therefore recommended for approval.

8. **Recommendation**

Approval - Full

9. **Conditions**

1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

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

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

NOTE/S FOR CONDITION:

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

2 COMPLIANCE REQUIRED: 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. 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. WCLN-101 A
- AMENDED SITE PLAN - REC'D 02.12.24
- Landscape Strategy Plan - Received 17.09.24
- Preliminary Ecological Assessment - dated 12.7.2024 - written by ACJ Ecology - prepared by Andrew May

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 SPECIFIC RESTRICTION ON DEVELOPMENT: HOLIDAY OCCUPATION CONDITION:

CONDITION: Unless condition 4 applies, the holiday lodge hereby approved, and as clearly indicated on approved drawing no WCLN-101 A and Amended Site Plan received 02.12.24, are exclusively designated for holiday purposes of the occupiers only and shall not be utilised as a person's sole or main place of residence nor permanent residential dwelling of individuals not engaged in such holiday purpose at any time, including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended.

Furthermore, the following restrictions shall apply:-

1. Occupation Period: No continuous occupation period of an individual person shall exceed 42 days without a break of at least 10 days between occupation.
2. Primary Residence Prohibition: The approved holiday lodge shall only be occupied by persons who have available an alternative primary residential address, it shall not be utilised as a person's sole or main place of residence.
3. Register of Occupants: A comprehensive register containing the names, full details of permanent home addresses, and vehicle registrations (if travelling by car) of occupants shall be maintained for all periods of occupation each year. This register must be made available to the Local Planning Authority for inspection at any time in a form that can be digitally provided upon request, and all records shall be retained for a minimum of ten years.

REASON: The site of the permission is outside any area where planning permission would normally be forthcoming for residential development without either harm or conflict with planning policies. The development is expressly permitted for holiday use to contribute significantly to local tourism and the economic well-being of the area. This contribution is considered paramount, justifying the exceptional approval of this development that would otherwise be a departure of the Local Plan and unsustainable development.

NOTE FOR CONDITION: Holiday Purpose: This term refers to the usage of the development site for short-term stays, primarily for recreational or leisure purposes, individuals occupying the site are doing so for holidays and vacations. Continuous Occupation: Continuous occupation, as mentioned in the condition, indicates the uninterrupted stay of an individual on the development site. In this context, the condition restricts the continuous occupation of any individual person to no more than 42 days without a break of at least 10 days between periods of occupation. This restriction is designed to ensure that the site is not used as a permanent residence and aligns with its intended holiday purpose to generate active tourism within the District.

4 SPECIFIC RESTRICTION ON DEVELOPMENT

CONDITION: When the hereby approved holiday lodge is not in use for holiday purposes as required under condition 3, it shall only be used and occupied for purposes incidental and ancillary to the principal dwelling known as Yaffle (or as may be renamed in the future).

REASON: The holiday lodge hereby approved would not be acceptable under the established policies of Local Plan and NPPF by representing a net increase in dwelling units were the development to be occupied as an unrestricted residential dwelling. Furthermore, having regard to its particular relationship with the principal dwelling, there is potential for noise, activity and disturbance detrimental to the amenity of that principal dwelling were the development to be occupied as an unrestricted dwelling/non-ancillary unit.

5 FURTHER APPROVAL: MITIGATION TO BE AGREED - RAMS

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

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

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

NOTE/S FOR CONDITION:

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

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

LEGAL AGREEMENT REQUIRED

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

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

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

6 FURTHER APPROVAL: BIODIVERSITY ENHANCEMENT STRATEGY

CONDITION: Prior to any above ground works, a Biodiversity Enhancement Strategy for protected and priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include, but not be limited to, the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) Detailed designs or product descriptions to achieve stated objectives;
- c) Locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) Persons responsible for implementing the enhancement measures;
- f) Details of initial aftercare and long-term maintenance (where relevant).

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

REASON: To enhance protected and Priority species and habitats.

7 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.

8 COMPLIANCE: TREE PROTECTION MEASURES

CONDITION: The approved tree protection measures as shown on drawing reference 'Tree Protection Fence Plan' received 07.11.24, shall be retained throughout the duration of any building and engineering works in the vicinity of the tree/s to be protected. Any tree/s dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with a tree or trees of appropriate size and species during the first planting season, or in accordance with such other arrangement as may be approved, in writing, with the Local Planning Authority up to first use or first occupation of the development, following the death of, or severe damage to the tree/s.

REASON: For the avoidance of damage to existing trees in the interests of visual amenity and the character and appearance of the area. This condition is required to be carried out prior to the commencement of any other development to ensure trees are protected early to ensure avoidance of damage or lost due to the development and/or its construction. If agreement was sought at any later stage, there is an unacceptable risk of lost and damage to trees.

9 SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PERMITTED DEVELOPMENT RIGHTS EXTENSION AND ALTERATIONS

CONDITION: Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order with or without modification):- - no enlargement, improvement, insertion of new openings or other alteration of the hereby approved building shall be carried out, except pursuant to the grant of planning permission on an application made in that regard.

REASON: To enable the Local Planning Authority to retain control over the development in the interests of the amenity of the locality and to safeguard local distinctiveness.

10. Informatives

Positive and Proactive Statement

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

Highways

- i. There shall be no discharge of surface water onto the Highway.
- ii. 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.or

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