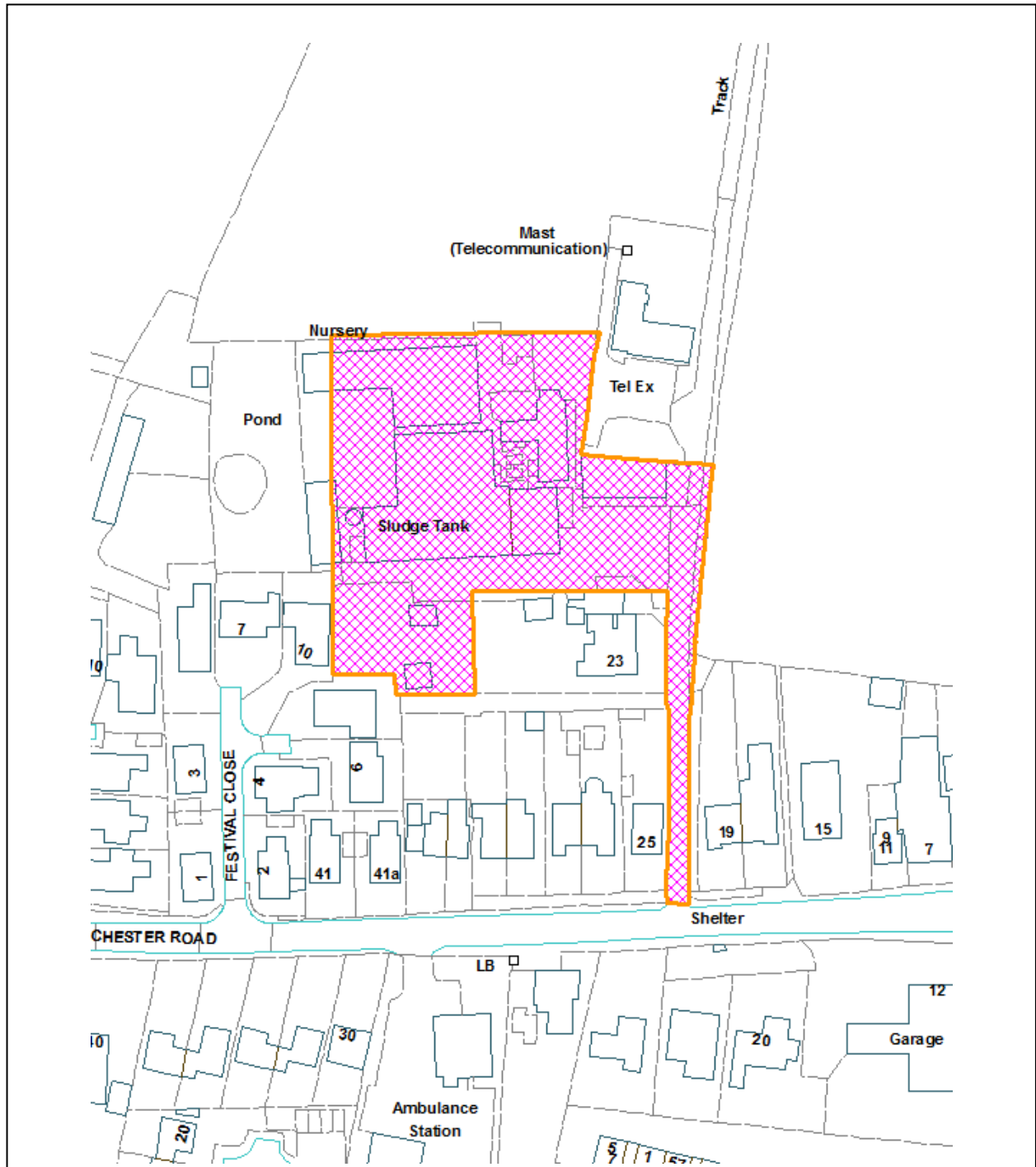


PLANNING COMMITTEE

27 FEBRUARY 2018

REPORT OF THE HEAD OF PLANNING

A.5 PLANNING APPLICATION - 17/01955/OUT - RAINBOW NURSERIES, 23 COLCHESTER ROAD, WEELEY, CO16 9JT



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| Application: | 17/01955/OUT | Town / Parish: Weeley Parish Council |
| Applicant: | Mr & Mrs Norris | |
| Address: | Rainbow Nurseries 23 Colchester Road Weeley | |
| Development: | Outline planning application with all matters reserved for the construction of 9 detached bungalows. | |

1. **Executive Summary**

- 1.1 This application is referred to the Planning Committee by Councillor Bray due to the proposal representing backland development, being sited outside of the Settlement Development Boundary of Weeley, the harm to neighbouring amenities and the Public Right of Way from the use of the existing access.
- 1.2 The application seeks outline planning permission with all matters reserved for the erection of 9 detached bungalows on the existing Rainbow Nurseries site adjacent to number 23 Colchester Road, Weeley. The site is accessed between numbers 19 and 25 and lies to the rear of the properties fronting Colchester Road and partly adjacent to properties within Festival Close.
- 1.3 The site is located outside of the Settlement Development Boundary of the adopted Tendring District Local Plan 2007 and partly included within the extended boundary as defined by the emerging Tendring District Local Plan Publication Draft 2017.
- 1.4 At present the Council is able to demonstrate a 5 year housing supply. However, to maintain the Council's strong housing supply position going forward and prior to the adoption of the emerging local plan it is acknowledged that sustainable sites on the edge of Rural Service Centres as defined within emerging Policy SPL1 will be assessed on a case by case basis.
- 1.5 Having regard to the existing built form on the site and beyond, together with the single storey scale of the proposed dwellings the development will not result in any environmental harm or wider landscape impact. The development will not increase the level of vehicle trips already associated with the site and will remove the majority of heavy vehicles using the access improving the impact on neighbours and pedestrian safety of the public right of way users. The indicative layout shows that the site can accommodate 9 dwellings with associated garages and parking. The single storey nature of the proposal will ensure the impact on residential amenities is minimal.
- 1.6 The horticultural use is a family run trade only business, failing to compete with larger operators and nearby nurseries that are open to public with retail elements. On this basis, current employment is likely to be lost and future employment opportunities are limited. Any expansion would increase general traffic movements and the number of HGVs using the unsuitably narrow access being more harmful to residential amenities, highway and pedestrian safety. This further demonstrates the unsuitability of a commercial use of this nature and scale in this location.
- 1.6 It is considered that the site forms a logical re-development of a brownfield site in commercial use to a more appropriate and environmentally compatible use abutting existing residential dwellings on the edge of the settlement boundary of a Rural Service Centre, one of the district's more sustainable settlements.

Recommendation: Approve

Conditions:

- 1 – 3. Submission of Details in relation to access, layout, scale, appearance and landscaping and Time Limit
4. Single storey only
5. Details of boundary treatments
6. Construction Method Statement considering Public Right of Way impact

2. Planning Policy

Tendring District Local Plan (Adopted November 2007)

- QL1 Spatial Strategy
- QL2 Promoting Transport Choice
- QL3 Minimising and Managing Flood Risk
- QL9 Design of New Development
- QL10 Designing New Development to Meet Functional Needs
- QL11 Environmental Impacts
- HG1 Housing Provision
- HG6 Dwellings Size and Type
- HG7 Residential Densities
- HG9 Private Amenity Space
- HG13 Backland Residential Development
- EN1 Landscape Character
- TR1a Development Affecting Highways
- TR7 Vehicle Parking at New Development

Tendring District Local Plan: 2013-2033 and Beyond Publication Draft (June 2017)

- SP1 Presumption in Favour of Sustainable Development
- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP8 Backland Residential Development
- PPL3 The Rural Landscape
- CP1 Sustainable Transport and Accessibility

Other Guidance

Essex County Council Car Parking Standards – Design and Good Practice

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. Part 1 was examined in January 2018 with the Inspector's report awaited and whilst its policies cannot yet carry the full weight of adopted policy, they can carry some weight in the determination of planning applications. Where emerging policies are particularly relevant to a planning application and can be

given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

3. **Relevant Planning History**

| | | | |
|--------------|--|----------|------------|
| 00/00504/FUL | Proposed two storey side extension to form ground floor study and first floor additional bedroom | Approved | 24.05.2000 |
| 01/01603/FUL | Change of use of outbuilding to be used for storage, workshop and office purposes | Approved | 08.11.2001 |
| 98/00574/FUL | (Tall Pines, 23 Colchester Road, Weeley) Single storey rear extension | Approved | 10.06.1998 |
| 06/00602/FUL | Proposed ground floor extension to form family room and internal alterations. | Approved | 25.05.2006 |
| 15/00559/FUL | New dwelling to rear of existing property. | Approved | 12.06.2015 |

4. **Consultations**

| | |
|-------------------------------------|---|
| Building Control and Access Officer | No adverse comments at this time. |
| Regeneration | The Regeneration Team do not support this application but is unable to make a full comment due to the lack of information provided in the documentation that should refer to the employment on site, including the number of people that are currently employed, who would all lose their jobs as a result of this development. There is also no supporting evidence of the site having even being marketed to gauge if any alternative horticultural business would be interested in taking it on. |
| Waste Management | No comments at this stage. |
| Anglian Water Services Ltd | No comments received. |
| Essex Bridleways Association | No comments received. |
| ECC Highways Dept | <p>This Authority has assessed the highway and transportation impact of the proposal and having regard to the fact that i) It will not increase the level of vehicle trips already associated with the site, and ii) Will remove the majority of heavy vehicles using the access, does not wish to raise an objection subject to the following:</p> <p>All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6</p> |

weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.

' Prior to occupation of the development the vehicular turning facilities, as shown on the submitted plan 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 in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

' Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

' Any single garages should have a minimum internal measurement of 7m x 3m

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

NOTE: - Public Rights of Way - The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath no2 (Weeley) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.

NOTE - Site Workers - Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site. No vehicles associated with the development shall affect the ease of passage along the PROW.

INF01 Highway Works - All work within or affecting the highway is

to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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 or by post to:

SMO1 ' Essex Highways, Colchester Highways Depot, 653, The Crescent, Colchester Business Park, Colchester CO49YQ

INF02 Cost of Works - 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.

INF10 - Construction Traffic Routes - Prior to the commencement of any work on the site, a joint inspection of the access between the development site and the junction of Colchester Road to be used by construction vehicles should be carried out by the Applicant and the Highway Authority, including photographic evidence. The route should then be inspected again, after completion of the development and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard and at no cost to the Highway Authority.

The Ramblers Association

No comments received.

5. Representations

5.1 Weeley Parish Council raise concerns with the application due to the proposal representing backland development, being sited outside of the Settlement Development Boundary of Weeley and the harm to neighbouring amenities and the Public Right of Way from the access.

5.2 4 individual letters of objection/representation have been received raising the following concerns;

- Will exacerbate existing traffic movements.
- Will exacerbate noise and disturbance to residential properties.
- Visual harm to public right of way and landscape.
- Lead to more vehicles using the dangerous access onto Colchester Road.
- Driveway not wide enough for 2-way traffic.
- Sewerage is at capacity and often has to be unblocked.
- Set a harmful precedent leading to loss of adjacent farmland to housing.
- Weeley has enough houses already.
- Weeley is a village not a town.
- Lack of infrastructure and amenities to support more housing.
- Restrict access during development.

5.3 1 objection raises many questions regarding the detailed layout, design and landscaping of the development which is not being considered at this outline stage.

6. Assessment

6.1 The main planning considerations are:

- Site context;
- Application Proposal and Planning History;
- Principle of development;
- Scale, Layout and Landscape Impact;
- Residential Amenities;
- Highways and Parking.

Site Context

- 6.2 The application site comprises part of a long established wholesale horticultural nursery Rainbow Nurseries adjacent to number 23 Colchester Road, Weeley. The site is accessed between numbers 19 and 25 and lies to the rear of the properties fronting Colchester Road and partly adjacent to properties within Festival Close. The site measures approximately 0.53 hectares in size. The business does not operate any retail element but propagates and grows on plants for the landscaping and wholesale market. The owners live in the associated dwelling house, No.23 Thorpe Road, which fronts on to a private access road.
- 6.3 Beyond, to the north, are open fields and outdoor planting areas. This open land is also a certificated caravan site available to accommodate 5 touring caravans with a British Telecom telephone exchange adjacent also to the north of the application site.
- 6.4 The existing access serves the nursery site and number 23 Colchester Road; the caravan site; the telephone exchange building and is also a designate Public Right of Way.

Application Proposal and Planning History

- 6.4 This application seeks outline consent with all matters reserved for the erection of 9 detached bungalows incorporating part of the nursery site and the part of the rear garden of number 23 Colchester Road.
- 6.5 The part garden area to the rear of number 23 Colchester Road is subject of planning permission approved under 15/00559/FUL for the erection of a detached bungalow.

Principle of development

- 6.6 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a material consideration in this regard.
- 6.7 'Sustainable Development', as far as the NPPF is concerned, is development that contributes positively to the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.
- 6.8 One of the NPPF's core planning principles is to "actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable". With this in mind, Policy SPL1 in emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations.

- 6.9 The site is located outside of the Settlement Development Boundary of the adopted Tendring District Local Plan 2007 and partly included within the extended boundary as defined by the emerging Tendring District Local Plan Publication Draft 2017 and is therefore located immediately adjacent to the built up area of Weeley. The extended settlement boundary in this location includes 2 fairly recent residential developments at Waylands Drive, Festival Close and number 23 Colchester Road.
- 6.10 At present the Council is able to demonstrate a 5 year housing supply. However, to maintain the Council's strong housing supply position going forward and prior to the adoption of the emerging local plan it is acknowledged that sustainable sites on the edge of Rural Service Centres as defined within emerging Policy SPL1 will be assessed on a case by case basis. It is accepted that these settlements can achieve smaller-scale growth with accommodating a modest increase in housing stock, where appropriate, within the plan period. These will make a meaningful contribution toward addressing local housing needs, supporting the village economy and assisting with the overall housing growth proposed for the District. Weeley is served by a good bus and rail service and the site is within walking distance of these facilities and other local amenities such as convenience store and post office, public house, community hall and park and primary school. Whilst the site lies outside of the development boundary, the social sustainability credentials of the site and position within the settlement hierarchy are recognised and the development will not compromise the Council's ability to manage growth through the plan-led approach.
- 6.11 The horticultural use is a family run trade only business, failing to compete with larger operators and nearby nurseries that are open to public with retail elements. On this basis, current employment is likely to be lost and future employment opportunities are limited given the constraints of the site and access. Any expansion would increase general traffic movements and the number of HGVs using the unsuitably narrow access being more harmful to residential amenities, highway and pedestrian safety. This further demonstrates the unsuitability of a commercial use of this nature and scale in this location in such close proximity to existing dwellings. The requirements of a sustained marketing campaign as set out within Policy ER3 and Appendix 3a of the adopted Tendring District Local Plan (2007) are not triggered in this instance given that the site is within horticultural use and not a use specified within the appendix and justification for its loss has been provided.
- 6.12 Within the accompanying Planning Statement the agent sets out the opportunity of converting 3 existing store buildings under the prior notification process allowed under Part Q of the General Permitted Development Order together with the approval for a single dwelling to the rear of number 23 equating to 4 dwellings being possible on the site.
- 6.12 The site forms a logical re-development of a brownfield site in commercial use to a more appropriate and environmentally compatible use abutting existing residential dwellings on the edge of the settlement boundary of a Rural Service Centre, one of the district's more sustainable settlements.

Scale, Layout and Landscape Impact

- 6.13 The site currently comprises of part of the rear garden of number 23 Colchester Road and the part of the site associated with Rainbow Nurseries which currently comprises a range of glasshouses, barns and storage buildings all associated with the business. To the north is the caravan site and the telephone exchange building with open fields beyond. To the east are open fields which meet the rear of the properties fronting Crow Lane. Colchester Road and Thorpe Road generally comprises a linear arrangement of dwellings which vary in scale, height, bulk, design and appearance. However, in the immediate area of the site the developments at Waylands Drive and Festival Close have introduced new roads of cul-de-sac bungalow developments, the latter of which extends up to the boundary with the application site to the rear of number 23.

- 6.14 Policy EN1 of the adopted Local Plan and Policy PPL3 in the emerging Local Plan seek to protect and, wherever possible, enhance the quality of the district's landscape; requiring developments to conserve natural and man-made features that contribute toward local distinctiveness and, where necessary, requiring suitable measures for landscape conservation and enhancement. Furthermore, Policy HG13 of the adopted Local Plan and Policy LP8 in the emerging Local Plan address backland residential development.
- 6.15 As stated above the site is located on the edge of the Weeley Settlement Development Boundary and contains several horticultural buildings and the associated dwelling. The location and existing use of the site means that it is associated with existing residential properties to the south and contains large buildings. Beyond is the telephone exchange building. The proposed single storey dwellings would be viewed in this context and the development would not introduce built form of a backland or isolated nature. Views of the housing from the north and from the Public Right of Way would be mostly seen against the backdrop of existing residential development or in association with the adjacent to the telephone exchange building.
- 6.16 The single storey scale of the proposed development is considered the most appropriate response to the character of the area and mimics the scale of the existing buildings on the site minimising the visual impact. The dwellings would be sited behind the existing properties fronting Colchester Road and number 23 Colchester road resulting in no noticeable visual impact on the street scene.
- 6.17 The proposal is for 9 dwellings on a site of approximately 0.53 hectares is size which equates to just less than 17 dwellings per hectare. Both Waylands Drive and Festival Close equate to approximately 33 dwellings per hectare. The proposed development is therefore considered an acceptable density level and is more appropriate than the most recent nearby residential developments.
- 6.18 Having regard to the existing built form on the site and beyond, together with the single storey scale of the proposed dwellings, the development will not result in any environmental harm or wider landscape impact. The development is of a number and scale that responds appropriately to the existing pattern of development and will not be harmful to the character of the area.

Residential Amenities

- 6.19 The NPPF, in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 ensures that development is located where the proposal will be compatible with surrounding uses. It should be of a scale appropriate to its setting and protect the privacy, daylight and amenity of surrounding occupiers. Policy HG9 requires specified levels of amenity space for different house types. In addition, the development should not have a materially damaging impact on road traffic safety or cause pollution or a nuisance to nearby residents.
- 6.20 The application is in outline form with all matters reserved and Officers consider that single storey development in the manner suggested, through the submission of a reserved matters application, could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties or the future occupiers of the proposed dwellings.
- 6.21 The indicative layout does raise some concern over the close proximity of one of the plots to the existing dwelling at number 10 Festival Close. However, the site density as set out above will allow for the position of the dwellings and their associated garaging and parking to be amended to overcome these concerns and retain sufficient spacing to the residential property adjacent to the site as to not cause loss of light, outlook or privacy.

- 6.22 Additional information has been provided by the Agent via email received 22nd January 2018 in regard to the existing traffic movements and types of vehicles using the existing access. There are at least 4 vans (up to 7.5 tonne) visiting the site everyday including suppliers, customers, contractors, cleaning and maintenance staff. In total, the business can expect 14 car movements and 32 commercial vehicle movements per day. The car traffic associated with 9 dwellings is considered to attract considerably less number of movements than the existing use while also removing the 7.5 and 40 tonne vehicles that have to negotiate the driveway. Therefore, the proposed development will represent an improvement to the impact on neighbouring amenities and pedestrian safety of the users of the Public Right of Way.

Highways and Parking

- 6.23 Policy TR1a seeks to ensure that development affecting public highway reduces/prevents hazards and inconvenience to traffic. Policy TR7 states that the adopted parking standards will be applied to all new development. Paragraph 32 of the NPPF relates to transport and requires Councils, when making decisions, to take account of whether safe and suitable access to the site can be achieved for all people stating that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.24 As set out above, the additional information provided by the Agent via email received 22nd January 2018 establishes that the business can expect 14 car movements and 32 commercial vehicle movements per day. The car traffic associated with 9 dwellings is considered to attract considerably less number of movements than the existing use while also removing the 7.5 and 40 tonne vehicles that have to negotiate the driveway.
- 6.25 While the access road may not meet the desirable adopted standards at 5.9m in width, it would meet the requirements for a shared access way Type 5 minor access road. Given the considerable reduction in the nature and scale of vehicles using this road, the proposed scheme is viewed as only being of positive benefit for users of the footpath and safety along Colchester Road. In respect of the latter, by virtue of a highway verge to the front of neighbouring properties, there are visibility splays of 2.4m x 90m each direction, although this is partly impeded to the west by the awkward position of a telegraph pole. It may be desirable to relocate this pole. Colchester Road is the subject of a 30mph speed limit in the vicinity of the site. The hedgerow to the eastern side of the access road is in separate ownership, and therefore would be retained and continue to act as a buffer from the vehicular use of the roadway.
- 6.26 The Highway Authority raise no objection subject to conditions on the basis that the proposed development would constitute an improvement to highway and pedestrian safety in comparison to the existing use and the associated traffic movements. However, as this is an outline application with all matters reserved, details of the access will be dealt with by a future reserved matters application and it is not necessary to impose the recommended conditions.
- 6.27 In terms of vehicular parking, the indicative plan shows that each property can be served by a garage and further parking space to accord with the adopted minimum parking standards.

Background Papers

None