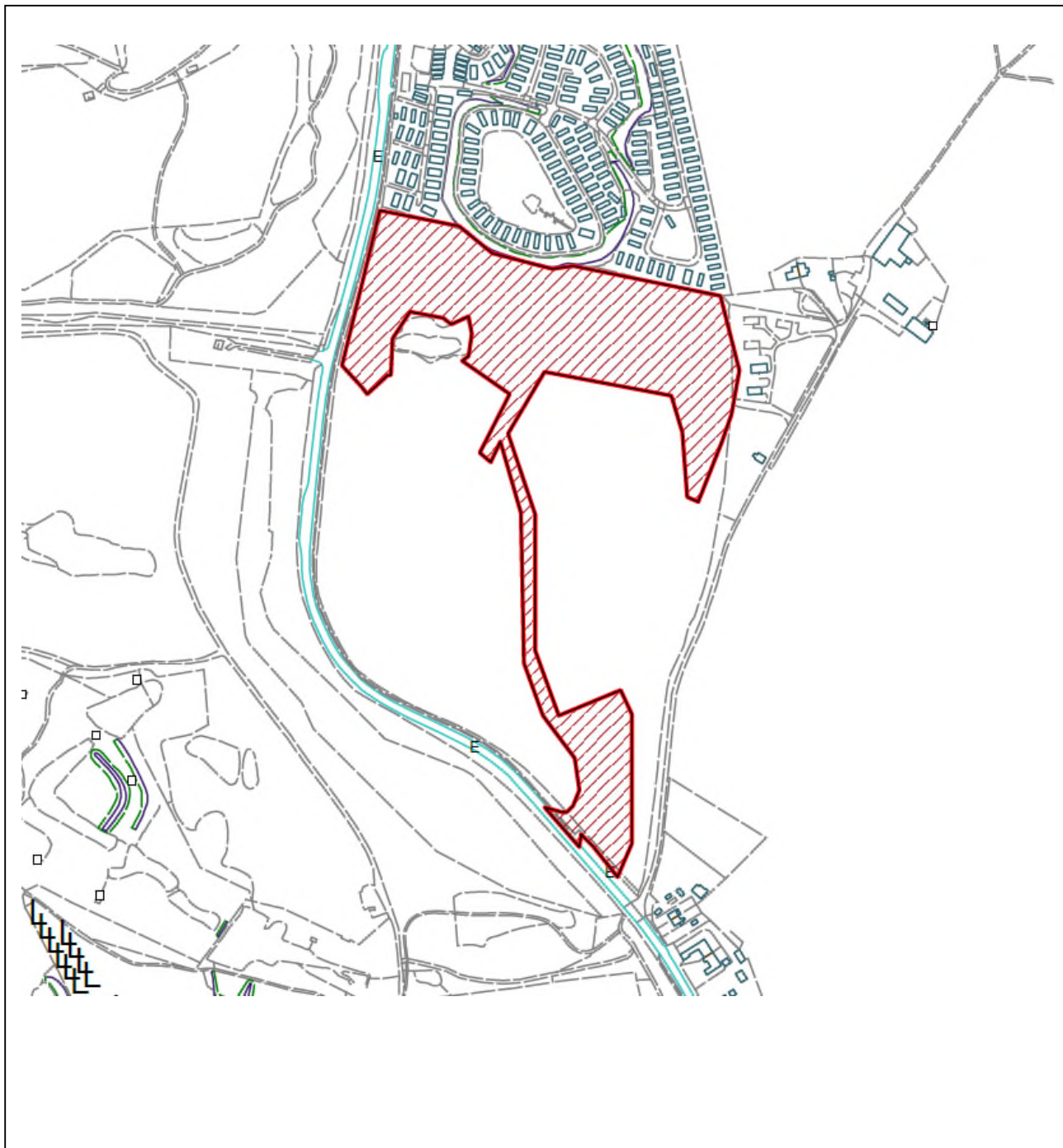


**PLANNING COMMITTEE**

**8 JULY 2025**

**REPORT OF THE CORPORATE DIRECTOR OF PLANNING AND COMMUNITY**

**A.1 - PLANNING APPLICATION – 24/00560/OUT – WELLWICK SITE COLCHESTER ROAD ST  
OSYTH CO16 8HS**



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<b>Application:</b>	24/00560/OUT	<b>Expiry Date:</b>	12th August 2024
<b>Case Officer:</b>	Matthew Lang		
<b>Town/ Parish:</b>	St Osyth Parish Council		
<b>Applicant:</b>	Wellwick Farms Ltd		
<b>Address:</b>	Wellwick Site Colchester Road St Osyth Essex CO16 8HS		
<b>Development:</b>	Outline Planning Application (Access only to be considered and all other matters reserved) - Outline planning application for the erection of 37 dwellings, with all matters reserved other than the use of access from Colchester Road (as consented under 20/01124/OUT), associated public open space, landscaping and all associated ancillary works.		
<b>Recommendation:</b>	Outline Approval subject to S106		
	<ol style="list-style-type: none"> <li>1) On appropriate terms below and those as may be deemed necessary to the satisfaction of the Head of Planning and Building Control to secure the completion of a legal agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 dealing with the matters as summarised at paragraph 10.2:</li> <li>2) That the Head of Planning and Building Control be authorised to grant outline consent subject to the agreed section 106 agreement and conditions as stated at paragraph 10.3, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,</li> <li>3) The informative notes as may be deemed necessary.</li> </ol>		
	<b>Or;</b>		
	<ol style="list-style-type: none"> <li>4) That in the event of the Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 12 months that the Head of Planning and Building Control be authorised to refuse the application on appropriate grounds at their discretion.</li> </ol>		

## 1. Executive Summary

- 1.1 This application seeks outline planning permission (with all matters reserved aside from access) for the erection of 37 dwellings at the Wellwick Site, Colchester Road, St Osyth. The application comes before the planning committee as the proposal represents a departure from local plan policies which govern the location of new housing development.
- 1.2 The wider site has planning permission 190 dwellings, as part of an enabling scheme associated with the restoration of nationally important heritage assets located at the nearby St Osyth Priory complex.
- 1.3 This application proposes a further 37 dwellings on two parcels of land, which formed part of the

previous consented scheme. Again, the development is promoted as enabling development to fund further works, particularly to the Abbot's Lodgings at St Osyth Priory.

- 1.4 In summary, the principle of resident development in this location is already established and the access point is already consented. The proposal would represent a sustainable and proportionate development which, like the consented scheme, would serve as enabling development to fund further restoration works at St Osyth Priory. In this respect there is an identified and agreed need for such enabling development.
- 1.5 There are no overriding objections from any statutory consultees and no objections from St Osyth Parish Council or third parties.

## **2. Status of the Local Plan**

- 2.1 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:

- 2.2 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.
- 2.3 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.
- 2.4 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>
- 2.5 As a result, the 'titled balance' at paragraph 11 d) of the Framework does not apply to decisions relating to new housing development.

## **3. Neighbourhood Plans**

- 3.1 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>

3.2 There are no neighbourhood plans in place that are relevant to this location.

#### **4. Planning Policy**

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

##### **National:**

National Planning Policy Framework 2025 ([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)

SP 1 Presumption in Favour of Sustainable Development

SP 2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP 3 Spatial Strategy for North Essex

SP 4 Meeting Housing Needs

SP 7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP1 Improving Health and Wellbeing

HP3 Green Infrastructure

HP5 Open Space, Sports and Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable Housing

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL8 Conservation Areas

PPL9 Listed Buildings

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)

Tendring Provision of Recreational [Open Space for New Development SPD](#) 2008

[Essex Design Guide](#)

[Technical housing standards](#): nationally described space standard Published 27 March 2015

##### Local Planning Guidance

[Essex Parking Guidance](#) Part 1: Parking Standards Design and Good Practice 2024

#### **5. Relevant Planning History**

11/00333/OUT	Erection of 190 dwellings on 16.3 hectares of land; new junction and access roads; driveways; parking; footpaths; landscaping and all ancillary works; use of land as an archery range; construction of access drive and layout of parking area including siting of storage container for archery equipment. The proposals also include for a new footway to be built along a section of Colchester Road, south of the Wellwick.	Approved	18.03.2016
18/01476/DETAIL	Erection of 190 dwellings on 16.3 hectares of land; new junction and access roads; driveways; parking; footpaths; landscaping and all ancillary works; use of land as an archery range; construction of access drive and layout of parking area including siting of storage container for archery equipment. The proposals also include for a new footway to be built along a section of Colchester Road, south of the Wellwick.	Approved	01.07.2020
19/01171/OUT	Variation of conditions 18 and 30 for application 11/00333/OUT to amend wording of condition 18 to 'Land as identified on drawing RW007-008 Rev D to be used for the relocated Bowmans Archery range shall be retained for that use with any ancillary buildings.' and amend wording of condition 30 to only include the following plans Site Plan showing Application Boundary - CC-0175-ABP010-6, Building Envelope/Use Plan - RW007-008 Rev D and Building Storey Heights Plan - RW007-009 Rev E.	Approved	22.06.2020
20/01099/DISCON	Discharge of condition 4 (strategic phasing plan) of approved application 19/01171/OUT.	Approved	09.09.2020
20/01124/OUT	Variation of conditions 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 27 and 28 of approved application 19/01171/OUT to allow for the discharge of conditions in a phased manner.	Approved	19.10.2020
21/01425/DISCON	Discharge of condition 5 (hard and soft landscaping), condition 15 (ecological survey), condition 22 (bat survey) and condition 25 (contamination scheme) of application 20/01124/OUT	Approved	16.09.2021
21/01611/DISCON	Discharge of conditions 10 (Wheel	Approved	26.05.2022

washing), 17 (CEMP) and 18 (Energy efficiency) of application 20/01124/OUT.

22/00082/DISCON	Discharge of condition 21 (SUDS Scheme) of application 20/01124/OUT.	Approved	12.04.2022
24/00560/OUT	Outline Planning Application (Access only to be considered and all other matters reserved) - Outline planning application for the erection of 37 dwellings, with all matters reserved other than the use of access from Colchester Road (as consented under 20/01124/OUT), associated public open space, landscaping and all associated ancillary works.	Current	
24/00673/VOC	Application under Section 73 of the Town and Country Planning Act for Variation of Conditions 1 (Approved plans) and Condition 3 (Car parking and turning areas) of application 18/01476/DETAIL.	Approved	02.08.2024
24/01414/VOC	Application under Section 73 of the Town and Country Planning Act for Variation of Condition 1 (Approved Plans); Condition 2 (Landscaping Scheme); Condition 4 (Parking and Turning Areas) of application 24/00673/VOC to make changes to the layout and housetypes within phase 1, and to adjust the phasing plan.	Approved	21.11.2024
24/01894/DISCON	Discharge of conditions application for 20/01124/OUT - Condition 19 (Wastewater Strategy); Condition 20 (Foul Water Strategy); Condition 21 (Surface Water Strategy) - Phase 1A only.	Approved	21.01.2025
24/01925/DISCON	Discharge of conditions application for 20/01124/OUT - 27 (Recruitment Strategy).	Approved	06.01.2025
25/00022/DISCON	Discharge of conditions application for (24/01414/VOC) - Condition 2 (Landscaping Scheme) - Phase 1A only.	Approved	13.01.2025
25/00023/DISCON	Discharge of conditions application for (20/01124/OUT) - Condition 5 (Hard and Soft Landscaping Works) - Phase 1A only.	Approved	13.01.2025
25/00183/DISCON	Discharge of conditions application for 20/01124/OUT - Condition 8 (Landscape Management Plan) for Phase 1A.	Approved	11.02.2025

## 6. Consultations

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

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

### **ECC SuDS Consultee**

**25.06.2024**

As the Lead Local Flood Authority (LLFA) this Council provides advice on SuDS schemes for major developments. We have been statutory consultee on surface water since the 15th April 2015.

In providing advice this Council looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position:

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

#### Condition 1

No works except demolition shall takes place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 45% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 45% climate change critical storm event.
- Provision of 10% urban creep allowance applied to the impermeable areas used to calculate the required storage, in accordance with BS8582,
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- An updated drainage strategy incorporating all of the above bullet points including matters already approved and highlighting any changes to the previously approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all



outline applications are subject to the most up to date design criteria held by the LLFA.

#### Reason

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

#### Condition 2

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

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

#### Reason

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

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

#### Condition 3

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

#### Reason

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

We also have the following advisory comments:

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

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

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

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



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

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

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

#### Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

Please see Appendix 1 at the end of this letter with more information on the flood risk responsibilities for your council.

#### **Historic England**

**13.06.2024**

Thank you for your letter of 10 May 2024 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

#### Historic England Advice

##### Significance - St Osyth's

St Osyth's Priory comprises an exceptional historic site of outstanding significance. Established circa 1120 for the Augustinian Canons by the Bishop of London it was, throughout the 12th to the 16th centuries, one of the largest religious houses in Essex until its dissolution in 1539, when it was transferred into private ownership.

The outstanding archaeological, architectural and historic significance of the site is reflected in its multiple designations which encompass the scheduled remains of the Priory and mid-C16 mansion, alongside 22 listed buildings - 7 of which are afforded the highest degree of protection and are listed at grade I. The grounds of the Priory and Park are also a registered Park and Garden, and the complex is a key asset of St Osyth Conservation Area.

Historic England have been involved in extensive discussions alongside other stakeholders to find new uses for the Priory that would address the repair and conservation needs of these important assets, many of which are included in Historic England Heritage at Risk Register.

##### The Wellwick Site

The Wellwick site, to which the present application is related to, is located immediately outside of the northern end of the registered historic park and is distant from the village. The site

comprises an area lowered by gravel extraction and sits outside of the Conservation Area and Settlement Development Boundary; it is not an allocated site in the Local Plan (2013-2033).

The site has an extant permission (2016) for the erection of 190 dwellings (app.no.11/00333/OUT). The application was part of a battery of applications put forward by the applicant as enabling development as part of the vision for St Osyth's Priory.

#### Impact of the proposals

The present application seeks permission to increase the amount of development on the Wellwick Site. It proposes to introduce 37 additional dwellings. 24 would occupy the area initially envisaged for the archery range, the remainder 13 would be located to the south, near the site entrance.

It was accepted in the 2016 permission that the development of this site for residential would harm the significance of the Priory and conservation area. This was due to the erosion of the open rural setting that contributes positively to the character of these heritage assets. The proposed additional development in this area would result in greater suburban layout and more dense development, cumulatively adding to its negative impact and harm introduced to the significance of the Priory and conservation area.

The Planning Design and Access Statement submitted with this application indicates that the additional development would primarily focus on funding 'further works to the Abbott's Lodgings' (para. 1.31). Further viability information and details of the proposed enabling works were shared with us on 30th May. The latter give indication of the surplus the works are expected to generate and outline what works they would be funding.

However, it is unclear how the proposed additional 37 units relate to the existing consent and to the overall proposals for St Osyth Priory. As noted above, permission had been granted for 190 units on this site with the areas now proposed for the units being an archery range and open space and thereby benefits for that scheme. These benefits though would be removed by the proposed insertion of the units. We would also raise a query as to the potential implications arising from the Hillside case in relation to this proposal and the 2016 permission and this would need to be considered by the Council.

#### Planning Policy Considerations, Local Plan Policy and Guidance

The statutory requirement to have special regard to the desirability of preserving a listed building, its setting and any features of special interest (s. 66(1), Planning (Listed Building and Conservation Areas) Act 1990) must be taken into account by your authority when making its decision.

The National Planning Policy Framework sets out the objectives and policies against which all development must be assessed. Fundamental to the Framework is the presumption in favour of sustainable development (section 2 of the NPPF, 2023 update). The protection of the historic environment is a key environmental element of the policy.

In particular, paragraph 205 states that harm of any level requires clear and convincing justification, with great weight being given to the conservation of the heritage assets in question.

Paragraph 206 goes on to say that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Paragraph 214 requires local planning authorities to assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies, but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.

The Tendring District Local Plan (2013-2033) in its Section 2 - adopted on 25th January 2022 - establishes the vision and objectives for the District; the conservation and enhancement of Tendring's District historic environment is listed as Objective 7, under Protected Places/Sustainable Places. We also draw your attention to policies PPL 3 The Rural Landscape, PPL 7 Archaeology, PPL 8 Conservation Areas and PPL 9 Listed Buildings.

Historic England's GPA 4, Enabling Development and Heritage Assets (2020), sets out advice on enabling development against the background of the National Planning Policy Framework and Planning Practice Guidance. Paragraph 14 is of particular relevance to this application.

The sums of money generated through enabling development are provided to directly solve the conservation needs of the place, not to solve the financial needs of the present owner, to support/finance a business or to compensate the purchase price for the site. The amount of enabling development that can be justified will be the minimum amount necessary in order to address the conservation deficit and to secure the long-term future of the assets.

#### Historic England Position

The site has not been allocated in the Local Plan. Its development for residential would be contrary to policy and harm the significance of the Priory and conservation area. This harm was acknowledged in the previous application, and the introduction of further units would cumulatively add harm to these assets. The alleged benefits this proposal would deliver need to be appropriately understood.

Enabling development is development that would not be in compliance with local and/or national planning policies, and not normally be given planning permission, except for the fact that it would secure the future conservation of a heritage asset.

Further clarity is required regarding the elements that this development would provide for and the basis upon which it is being proposed as enabling development.

Consequently, Historic England cannot support this application. We consider further detail is necessary to assess the case against the requirements of enabling development guidance. A joint meeting with the applicant alongside the local authority to discuss these matters could be a suitable starting point to understand the situation and help the applicant in progressing matters. The applicant may consider appropriate to withdraw the application to aid discussion.

#### Recommendation

Historic England has concerns regarding the application on heritage grounds.

We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 205, 206 and 214.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If, however, you propose to determine the application in its current form, please treat this as a letter of objection, inform us of the date of the committee and send us a copy of your report at the earliest opportunity.

#### **Historic England**

**06.12.2024**

Thank you for your letter of 10 May 2024 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your

authority in determining the application.

#### Historic England Advice

This letter follows our previous advice dated 13 June 2024, in which we raised queries on how the proposed additional 37 dwellings related to the existing consent and the overall proposals for St Osyth's Priory. In particular, we queried the elements this development would provide for and the basis upon which it is being proposed as enabling development.

The applicant has provided additional detail on their response uploaded to the planning portal on 16 August 2024. In it, they explain that the additional enabling development proposed at the Wellwick site would fund specific restoration works that had been forward funded via a family loan on a 0% interest basis until such time that further enabling development is secured.

We have also met with the applicant and the Council on 20th August, and then with the applicant and the Trust on site on 26th September. The purpose of these meetings was primarily to understand the background leading to the present application, including the status of the s106 agreements resulting from the three granted enabling development schemes, the plans for the repair of some of the key assets within the site, such as Abbot's Tower or the Tithe Barn, as well as to discuss some currently live applications, such as the proposals for the Bury.

We have also requested clarity from the Council regarding the status of the Business Strategy, and the documents relevant to the enabling development calculations. Copies of the approved Business Strategy, 2009 Condition Survey and 2013 and 2016 Conservation Deficit and Enabling Development Reports were shared with us in October and November.

Historic England were involved on discussions during 2017 and 2018 regarding the wider strategy for the site but have not been consulted or provided comments on the Business Strategy submitted to the Council on 14th May 2019. We understand from an email from Matt Lang dated 1st November 2024 that this document has been approved by the Council. We have not been party either to any discussions regarding the family loan.

From the information shared with us, we understand the conservation deficit figures that have informed the Business Strategy were based on a Conservation Deficit and Enabling Development Report produced in November 2016 by Anthony Lee, BNP Paribas Real Estate. The latter is in turn informed by the 2009 Condition Survey and a Cost Plan produced by McBains Cooper in 2011 and updated in 2012.

There appear to be discrepancies between the conservation deficit estimates in the 2016 Conservation Deficit Report shared with us and those reflected in the Business Strategy and CIL Regulations Note: the former identifies a total CD of £36.3M compared to the £33.70M considered in the two latter documents. It is also unclear whether all the commercial uses that form the basis of the current Business Strategy were considered in the 2016 report; we note for example, the proposed spa in the walled garden.

It is also unclear where some of the works included in the Darcy House Accelerated Works, for which the family loan was agreed, are on the agreed Cost Plan; we refer, in particular, to the internal fit outs/improvements.

The information provided raises further questions and does not therefore address our concerns regarding this application. Consequently, our views and position on the scheme and approach to the site remain unchanged.

This is that we strongly support the aim and ambitions for the site to be brought into its optimum viable use, its principal buildings repaired and sympathetically reused. Based on the information shared with us, however, we continue to have serious concerns about the approach to and management of enabling development and how this meets established guidance.

Historic England cannot support this application. We ask the Council to carefully consider whether it is satisfied that the information before them aligns with Enabling Development guidance and secures the long-term future of the place. You may wish to obtain your own legal advice on this matter, should you be minded to grant permission to this application.

**Recommendation**

Historic England objects to this application on heritage grounds.

We consider the application does not meet the requirements of the NPPF. In particular paragraph numbers 205, 206 and 214.

In determining this application, you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

**Historic England**

**18.03.2025**

Many thanks for consulting us on the additional information submitted in support of this application. We do not wish to make any further comments and refer you to our previous advice.

**Environmental Protection**

**20.05.2024**

Thank you for your consultation regarding the proposed development above. The Environmental Protection Team's comments are given below:

If this application is to proceed to a full application, Environmental Protection would recommend the following:

**Construction Method Statement**

In order to minimise potential nuisance to nearby existing residents caused by construction and/or demolition works, Pollution and Environmental Control ask that the following is submitted:

Prior to the commencement of any construction or demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Pollution and Environmental Control. This should at minimum include the following where applicable.

**- Noise Control**

1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00(except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.

3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.

4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).

5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

#### - Emission Control

1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

2) No materials produced as a result of the site development or clearance shall be burned on site.

3) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

REASON: to protect the amenity of nearby residential dwellings

#### Lighting

Any external lighting on the proposed development shall be located, designed and directed [or screened] so that it does not cause avoidable intrusion to neighbouring residential properties. The applicant shall demonstrate compliance with the Institute of Lighting Professionals code of practice. ([www.theilp.org.uk](http://www.theilp.org.uk)).

Reason: to avoid any unnecessary light intrusion on existing and future residential properties and residents.

#### **Essex County Fire Officer**

No comments received

#### **Affinity Water**

No comments received

**ECC Schools Service**

No comments received

**North Essex Parking Partnership**

No comments received

**The Gardens Trust****28.05.2024**

Thank you for consulting the Gardens Trust in its role as Statutory Consultee on the above application which affects St Osyth's Priory, an historic designed landscape of national importance which is included by Historic England on the Register of Parks and Gardens of Special Historic Interest at Grade II.

We have considered the information provided in support of the application and liaised with our colleagues in Essex Gardens Trust. On the basis of this we confirm we do not wish to comment on the proposals at this stage. We would however emphasise that this does not in any way signify either our approval or disapproval of the proposals.

**Anglian Water Services Ltd****31.05.2024****ASSETS****Section 1 - Assets Affected**

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

**WASTEWATER SERVICES****Section 2 - Wastewater Treatment**

The foul drainage from this development is in the catchment of St Osyth Water Recycling Centre that will have available capacity for these flows

When assessing the receiving water recycling centre's(WRC) dry weather flow(DWF) headroom we take an average flow over the past 5 years to take account of changing weather patterns. Where the average exceeds the WRC's permitted allowance, we also take account of the following Environment Agency enforcement trigger - "has the DWF permit been exceeded in 3 of the last 5 years" - this must include non-compliance from the last annual data return. Based on the above assessment St Osyth WRC is within the acceptance parameters and can accommodate the flows from the proposed growth.

**Section 3 - Used Water Network**

This response has been based on the following submitted documents: Flood Risk Assessment and Drainage Strategy 217/2023/FRADS Dated March 2024 Part 1 and 2 The sewerage system at present has available capacity for these flows. The proposed connection point to the manhole TM12163201 located in Colchester Road as the applicant quoted in the Flood Risk Assessment and Drainage Strategy is acceptable to Anglian Water. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection. 1. INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact



Development Services Team 0345 6066087. 2. INFORMATIVE - Protection of existing assets - If a public sewer is shown on record plans within the land identified for the proposed development. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water. 3. INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087. 4. INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements."

#### Section 4 - Surface Water Disposal

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

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. Please note Anglian Water has no designated surface water sewers in the area of the proposed development. As such, we are unable to provide comments in the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse.

#### **Essex County Council Heritage**

No comments received

#### **ECC Highways Dept**

**24/06/2025**

The information submitted with the application has been assessed by the Highway Authority and conclusions have been drawn from a desktop study with the observations below based on submitted material. No site visit was undertaken in conjunction with this planning application. It is noted that the consented application, under 20/01124/OUT is for 190 units, while this proposal is seeking to add an additional 37 residential units, which would be accommodated within the area of the site previously set aside for the archery club and at an area at the southern corner of the approved site. Access to this proposal being accessed from the permitted development via the proposed dedicated right turn junction off B1027 Colchester Road. The proposed additional 37 residential units will generate up to 16 two-way trips in the AM peak hour and 17 in the PM peak hour. This represents just one additional vehicle every 3.5 minutes, as such this will therefore not result in unacceptable impact. The site location in terms of access to public transport and connectivity has already been assessed and the residential use was deemed acceptable in this location as part of the consented application, considering these factors:

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

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

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

- i. vehicle routing,
- ii. the parking of vehicles of site operatives and visitors,
- iii. loading and unloading of plant and materials,
- iv. storage of plant and materials used in constructing the development,
- v. wheel and underbody washing facilities.

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.

2. No occupation of the development shall take place until the following have been provided or completed:

a) The priority junction off the B1027 Colchester Road with dedicated right turn lane at the priority junction, to include 2no. central islands, the island to the south-east of the development access road to be constructed as a pedestrian refuge island with pedestrian tactile and including the associated 3-metre-wide footway works consented as part of application: 20/01124/OUT.

b) A new footway connection from the proposed northern development, with a maximum of 2-metre-wide footway provided on the east side of the B1027 Colchester Road providing a connection to the existing bus stops north of the proposal site.

Reason: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9 and DM10.

3. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator)

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

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

#### **Essex County Council Ecology**

**12.09.2024**

Recommend approval subject to attached conditions

#### **Summary**

We have reviewed the newly submitted document titled: Great Crested Newt DNA Testing Result of the Pond (Hopkins Ecology, July 2024).

We have also re-reviewed the Ecology Assessment (Hopkins Ecology, April 2024).

We are now satisfied that there is sufficient ecological information available to support 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.

The mitigation measures identified in the Ecology Assessment (Hopkins Ecology, April 2024) should be secured by a condition of any consent and implemented in full. This is necessary to

conserve and enhance protected and Priority species particularly those recorded in the locality.

We also support the proposed reasonable biodiversity enhancements for protected and Priority species, which have been recommended to secure net gains for biodiversity, as outlined under Paragraph 180d and 186d of the National Planning Policy Framework (December 2023). The reasonable biodiversity enhancement measures should be outlined within a separate Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 (as amended) and delivery of mandatory Biodiversity Net Gain.

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.

Please note that we do not provide comments on Biodiversity Net Gain as we have been instructed to leave comments on this matter to the Local Planning Authority.

#### Recommended conditions

##### 1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecology Assessment (Hopkins Ecology, April 2024) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."

Reason: To conserve and enhance protected and Priority species and 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).

##### 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 to achieve stated objectives;
- c) locations 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 s40 of the NERC Act 2006 (as amended).

##### 3. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

"A lighting design scheme for biodiversity 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 lighting contour plans and 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).

**Arch. Liaison Off, Essex Police**

**13.06.2024**

The Essex Police Designing Out Crime Office (DOCO) welcomes the opportunity to make comment planning application 24/00560/OUT.

We recognise that communities where safety and security has been addressed and designed in at the earliest planning stages, will enhance the health and wellbeing of its residents. Perception of crime and fear of crime can be an influential factor in determining the synergy and ongoing sustainability of a community.

An integrated approach to crime prevention at an early stage is necessary to all significant components of its design, planning, and layout. Good design and early co-ordination, incorporating 'Crime Prevention Through Environmental Design' (CPTED), can avoid the conflicts that may be expensive or impossible to resolve once the construction is complete. Essex Police would like to see this applicant incorporate CPTED in respect of this development pursuant to the NPPF.

Whilst there are no apparent concerns with the proposed layout of this site, Essex Police would request consultation with the applicant to discuss:- (Officer note: this would be a matter for the applicant at reserved matters stage should they decide to take this offer).

## **7. Representations**

### **7.1 Parish Council**

**St Osyth Parish Council**

Whilst in principle the Council would have no objections to this application, there are concerns that the area in which the proposed three storey dwellings are to be built is already raised. The Parish Council would therefore request sight of the full planning application before being able to comment further.

Further to its comments of 25th October 2018, in respect of 18/01476/DETAIL, highlighting concerns over road safety, the Parish Council fully supports the recommendation of Essex Highways dated 12th July 2024.

### **7.2 Neighbour / Local Representations**

No third-party letters of representation have been received.

## **8. Assessment**

### **Site Context**

- 8.1 The application site forms two parcels of land at the northern and southern end of the 'Wellwick' site, in the parish of St Osyth. The parcels of land are situated within a wider site ('Wellwick' site), which is situated to the north-eastern side of the B1027 Colchester Road. The wider site benefits from an implemented detailed planning consent for 190 dwellings, with the consented scheme serving as enabling development to help close the conservation deficit at St Osyth Priory by funding restoration works. In this respect, the application site falls wholly within the approved red line site of the consented scheme.
- 8.2 The site is not of heritage significance although it is opposite to the St Osyth Priory Park Estate, which is Grade II on the register of parks and gardens and part of the designated St Osyth Conservation Area. The site falls outside the settlement development boundary of St Osyth, of which the northern boundary is located approximately 300 metres to the south-east of the site.
- 8.3 The wider site is formed of a 12-hectare crater resulting from gravel extraction undertaken in the 1970s and now lies around 4/5 metres lower than its surroundings. The area is generally flat with steep verges at the sides. To the southern and western boundaries there are patches of vegetation running alongside Colchester Road. A caravan holiday park lies to the north. To the south are several properties situated on the eastern side of Colchester Road which leads to the main built-up area of St Osyth. To the east of the site is an existing Public Right of Way which extends northwards out into open countryside and the nearby Riddles Wood. The site is situated in a flood zone 1 (lowest flood risk zone) and is not located within a conservation area.
- 8.4 Significant ground works have commenced on site, alongside the construction of the vehicular access serving the consented scheme, which have secured the implementation of the approved housing development.

### **Planning History**

- 8.5 Outline planning permission, under reference 11/00333/OUT, was granted on 18th March 2016, for the erection of 190 dwellings on 6.3 hectares of land; new junction and access roads; driveways; parking; footpaths; landscaping and all ancillary works; use of land as an archery range; construction of access drive and layout of parking area including siting of storage container for archery equipment. The development also proposed a new footway to be built along a section of Colchester Road, south of Wellwick, to provide pedestrian infrastructure links into the village of St Osyth to the south and associated highway works, including bus stops and traffic islands.
- 8.6 The development was approved as part of an enabling development to fund works to be undertaken at the nearby St Osyth Priory Estate, including works to the Bailiffs Cottage, West/East Darcy House, West Gatehouse, Central Gatehouse and East Gatehouse as part of a holistic vision to see the Estate run on a commercial basis made up of two main business components: a function (wedding and events) offering and a visitor attraction.
- 8.7 Reserved matters consent pursuant to 11/00333/OUT was secured on 1st July 2020 (18/01476/DETAIL). This consent was subsequently implemented via the construction of the site access and ground level works.
- 8.8 A variation to the outline planning consent was then granted to vary Conditions 18 & 30 of the original permission to regularise the parameter plans (19/01171/OUT). This was followed by a further Section 73 consent which allowed the variation of conditions 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 27 and 28 of 19/01171/OUT to allow for the discharge of such conditions in a phased manner (20/01124/OUT).

8.9 Further Section 73 applications have been approved, under references 24/00673/VOC and 24/01414/VOC, to revise the approved Reserved Matters consent by making various changes to the layout and house types proposed within Phases 1 and 1a of the wider consent.

#### Proposal

- 8.10 Outline planning consent is sought for the erection of 37 dwellings; with all matters reserved other than the access from Colchester Road (as consented under 20/01124/OUT); associated public open space; landscaping and all associated ancillary works.
- 8.11 This application proposes 24 dwellings within the northern parcel, plus deliver a further 13 dwellings to the south of the site near the consented scheme's site entrance, thus raising the total number on the Wellwick site to 227 dwellings with a mix of 2, 3, 4 & 5 bed homes (11 x 2 bed, 15 x 3 bed, 7 x 4 bed and 4 x 5 bed).
- 8.12 As part of the previous consent the northern parcel of land granted permission for the siting of a private archery club. This club has since found an alternative site in Little Clacton and therefore no longer requires the site. The application proposes to reduce the level of this parcel of land to bring it down in line with the remainder of the site. A landscape buffer is proposed between the new development and the holiday park to the north. The southern parcel of land formed part of the open space serving the 190 unit scheme.
- 8.13 The outline consent, like the consent on the wider site, is proposed as enabling development to provide additional funding for works to the historic assets on the St Osyth Estate. The supporting documentation outlines that the additional enabling development proposed will primarily focus on funding works to the Abbott's Lodgings. The table below outlines the extent of the enabling works to be funded alongside agreed costings (Index Linked) which are informed by BNP Paribas' 2016 Conservation Report dated 17th November 2016;

Darcy House Loan Accelerated Works	Condition Survey References	2016 BNP Agreed Works Costs (281)	BCIS All-in TPI Indexation (to 370)	Deterioration Costs (2016-2022) Condition Survey Works Only	Total Indexed Works Cost to 4Q 2022	% of Works to be undertaken	Estimated Total Works Cost to be undertaken	Plan ref/Shading
<b>Abbott's Lodgings (Johnson Wing)</b>		<b>A</b>	<b>B</b>	<b>C</b>	<b>D (A+B+C)</b>	<b>E</b>	<b>F (E x D)</b>	
		£	-	£	-			
Abbotts Internal fitout/improvement works	Abbotts Internal fitout/improvement works	£ 282,189	£ 89,376	£ 14,300	£ 385,865	100%	£ 385,865	Plans 1&2 - shaded Orange
<b>East Wing</b>								
2.2.2.2 East Wing North Wall	East Wing North Wall 2.2.2.2a to 2.2.2.2f	£ 60,666	£ 19,214	£ 4,793	£ 84,673	100%	£ 84,673	Plans 1&2 - dotted line in Pink
2.2.2.5 East Wing Interior Repairs	East Wing Interior Repairs 2.2.2.5 - proportion only	£ 79,162	£ 25,073	£ 6,254	£ 110,489	49%	£ 54,140	Plans 1&2 - shaded Pink
East Wing Internal fitout/improvement works	East Wing Internal fitout/improvement works - proportion only	£ 925,886	£ 293,252	£ 26,718	£ 1,245,856	60%	£ 747,514	Plans 1&2 - shaded Pink
<b>South Wing Sub-total</b>								
2.3.2.1 South Wing Roof	South Wing Roof 2.3.2.1a to 2.3.2.1k - proportion only	£ 397,341	£ 125,848	£ 31,391	£ 554,580	18%	£ 99,824	Plan 3 - shaded Brown
2.3.2.2 South Wing West Wall NORTH	South Wing West Wall North Section 2.3.2.2a to 2.3.2.2j - proportion only	£ 131,165	£ 41,543	£ 10,362	£ 183,070	43%	£ 78,141	Plans 1&2 - dotted line in Brown
2.3.2.9 South Wing Interior Repairs	South Wing Interior Repairs 2.3.2.9a to 2.3.2.9e - proportion only	£ 300,755	£ 95,257	£ 23,761	£ 419,773	10%	£ 40,298	Plans 1&2 - shaded Brown
South Wing Internal fitout/improvement works	East Wing Internal fitout/improvement works - proportion only	£ 1,008,576	£ 319,442	£ 34,244	£ 1,362,262	12%	£ 163,471	Plans 1&2 - shaded Brown
		£ 3,185,740	£ 1,009,005	£ 151,823	£ 4,346,568	38%	£ 1,653,926	



- 8.14 In summary, the works proposed equate to approximately £1.65m in total and cover or contribute towards a host of repair works to the east and south wings of the Abbott's Lodgings (Grade 1 Listed) alongside internal fitout and other repairs. Elements of these works have already commenced as they have been forwarded funded via a family loan, on a 0% interest basis, to cover the works until such a time that further enabling development is secured.

#### Principle of Development

- 8.15 The development plan comprises the Tendring District Local Plan (LP) 2013-2033, Section 1 which was adopted on 26 January 2021 (TDLP1) and Section 2 of the Tendring District Local Plan 2013-2033 and Beyond which was adopted on 25 January 2022 (TDLP2).
- 8.16 TDLP1 Policy SP3 provides the spatial strategy for North Essex, including Tendring, whereby existing settlements will be the principal focus for additional growth within the plan period. It states that development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role and beyond the main settlements the diversification of the rural economy and conservation and enhancement of the natural environment will be supported.
- 8.17 TDLP1 Policy SP3 relies on the TDLP2 to identify a hierarchy of Tendring settlements. New development will be accommodated according to the role of the settlement, sustainability, its physical capacity and local needs. TDLP2 Policies SPL1 and SPL2 provide for this by establishing the Tendring settlement hierarchy and address development outside of settlement development boundaries.
- 8.18 Adopted Local Plan Section 2 (TDLPS2) Policy SPL2 states that, within the defined SDBs, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies. Outside of SDBs, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in TDLPS2 Policy SPL1 and any other relevant policies in this plan.
- 8.19 Insofar as the high-level principle of residential development is concerned, the location and scale of development is generally in conflict with the Council's Housing Strategy because the proposal would result in further housing growth in a location outside of any settlement development boundary at odds with the relevant spatial planning policies as set out above.
- 8.20 However, as noted above, the application site forms part of a wider consented residential development in relatively close proximity to the settlement of St Osyth. Moreover, the consented scheme proposes infrastructure works, including the provision of a new pedestrian footpath into the village and bus stop provision, that would help to improve connectivity with St Osyth to the south and direct pedestrian access for future occupants to the various facilities contained within the village.
- 8.21 Delving down to the detail, policy SPL1 categorises St Osyth as a 'Rural Service Centre'. The policy explains that settlements such as St Osyth will accommodate a modest increase in housing stock, where appropriate, within the plan period. The policy goes on to add such developments could make a meaningful contribution toward addressing local housing needs, supporting the village economy and assisting with the overall housing growth proposed for the District. In this respect, the proposal to increase the 'Wellwick' development by an extra 37 dwellings is considered to represent a relatively modest sized increase to the consented scheme of 190 dwellings and would positively contribute towards the Council's housing supply figures, at a time when the NPPF dictates that a higher need will be required in the near future.
- 8.22 Notwithstanding the above, Section 70(2) of the Town and Country Planning Act 1990 ("the 1990 Act") which provides that "in dealing with an application for planning permission... the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations" the decision-maker shall have regard to the provisions of the development plan, so far as material to the application.

- 8.23 Section 38(6) of the Planning and Compulsory Purchase Act 2004 ("the 2004 Act") which provides that "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 8.24 In this respect, it is acknowledged that the proposals are being promoted as part of an enabling development associated with the renovation and increased public access at the St Osyth Priory Estate. The 2019 St Osyth Priory Business Plan (June 2019) sets out the agreed vision for the Estate, with the overall aim to bring back into long term viable use the heritage assets, which includes 16 separate Grade I and Grade II \* listed buildings.
- 8.25 Enabling development is development that would not be in compliance with local and/or national planning policies, and not normally be given planning permission, except for the fact that it would secure the future conservation of a heritage asset.
- 8.26 The case for enabling development rests on there being a conservation deficit. Simply put, this is the amount by which the cost of repair (and conversion to optimum viable use if appropriate) of a heritage asset exceeds its market value on completion of repair or conversion, allowing for appropriate development costs.
- 8.27 The enabling development to be secured as part of this application submission will fund identified restoration works at St Osyth Priory (Abbot's Lodgings) to put back into beneficial use to sustain them for future generations. It is agreed in the St Osyth Priory Business Plan that enabling development sites are likely to be necessary in order to fund the extensive restoration works. To this end the BNP 2016 Conservation Report dated 17<sup>th</sup> November 2016, which is underpinned by the business plan, identifies a current conservation deficit of approximately £33.70m.
- 8.28 The National Planning Policy Framework (NPPF) at paragraph 221 states that local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies, but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.
- 8.29 To meet the requirements of the NPPF, an enabling development proposal can only be considered for approval if it provides benefits that outweigh the disbenefits, and where the decision-maker is confident that the scheme would secure the conservation of the heritage asset(s) – this involves assessing the position now and considering the asset's future. Whether the complete solution deals with the conservation of the totality of the heritage asset(s), or with a core group, it is good practice to take the decision in the light of a realistic view of the consequences of refusal. Equally, a proven conservation deficit may not automatically lead to a grant of consent, where the disbenefits of failing to comply with other planning policies are considered to outweigh the benefits of conserving the asset.
- 8.30 In this context, the Council acknowledges that the agreed business plan states that funding via further enabling will be required to meet the funding gap and close the identified conservation deficit.
- 8.31 The existence of a substantial Conservation Deficit has been established, and this is not in doubt. The value generated by the converted heritage buildings at the Priory Estate, the costs of an agreed package of works and the value of enabling development already agreed are all common ground. The applicant has identified an additional £1.6 million of works that were not funded by the original Enabling Development (both at Wellwick and the West Field Site), which are listed as priority works within the agreed Business Plan.
- 8.32 Given that these costs have been subject to extensive scrutiny and agreed as part of the original Section 106 agreement for the wider enabling scheme, they are common ground between the applicant and the Council. The applicant has subsequently identified a relatively modest amount of

additional development at Wellwick and they have agreed to a further package of works to heritage assets totalling circa £1.6 million.

- 8.33 These works have been forwarded funded via a family loan, on a 0% interest basis, to cover the works until such a time that further enabling development is secured. This arrangement was agreed via a letter from TDC dated 27th March 2023 as it was recognised that this would facilitate the delivery of the works earlier than would otherwise be achievable without the loan.
- 8.34 Overall, the principle of a development funding identified enabling works at St Osyth Priory is accepted and underpinned by the agreed business plan and corresponding condition survey, that confirms the current conservation deficit position. Moreover, the financial information provided has been independently assessed by BNP Paribas (who were heavily involved previously as part of the original 'Wellwick' enabling scheme) and they have confirmed that the applicant's proposed development of 37 additional units will generate a residual surplus of £1.4 million, which is marginally lower than the £1.6 million of heritage works that they will be required to provide. However, they conclude that the proposed development provides the minimum number of units necessary to address the further heritage works to be undertaken.
- 8.35 Therefore, whilst there is conflict with the Council's housing settlement strategy, and this is given weight in the overall planning balance, a full weighing up of the benefits against disbenefits of the development is required by the NPPF.
- 8.36 In this respect, it is acknowledged that the proposed development is to be located on part of a wider residential scheme that has consent in place. Furthermore, the development would provide for the construction 37 dwellings which contributes positively to the Council's housing supply numbers at a time when a higher need is being pursued as part of the Local Plan Review process. The development is also relatively modest in size and is located in a sustainable location, where, as part of the wider development for 190 dwellings, highway infrastructure works are secured to provide a safe pedestrian access into the village to the south, so future residents can access facilities and services available in St Osyth on foot.
- 8.37 Therefore, whilst it is acknowledged there is a conflict with the Council's current housing settlement strategy, taking the considerations above into account, alongside the merits of the enabling element of the scheme, the benefits of the proposal are significant and the disbenefits at principle level are fairly moderate.
- 8.38 At principle level therefore the development is acceptable and considered sustainable. Consideration therefore turns to other material planning considerations, which are covered below, and help to inform the concluding weighing up of the merits of the scheme v's the disbenefits, as required by paragraph 221 of the NPPF.

#### Scale, Layout & Appearance

- 8.39 Paragraph 135 of the NPPF 2025 requires that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and history, maintain a strong sense of place and create places that are safe, inclusive and accessible.
- 8.40 Adopted Section 1 Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Section 2 Policies SPL3 and LP4 of the Local Plan also require, amongst other things, that developments are designed to high standards and which, together with a well-considered site layout, create a unique sense of place.
- 8.41 The application is in outline form, so the layout, scale and appearance of the development proposals are indicative at this stage. However, the indicative plans submitted show that 24 dwellings will be

sited within the northern parcel and 13 units at the southern end adjacent to the vehicular access into the wider residential scheme.

- 8.42 The northern parcel is located at a higher level than the land to the south, so it is proposed that the land is reduced in height. A landscaped area is shown on the north of the properties to provide a strong buffer to the existing caravan site to the north. The plans show a mix of detached and linked detached dwellings set within good sized plots and interspersed amongst proposed planting. The properties all are shown to retain sufficient spacing between each other and those proposed dwellings to the south.
- 8.43 The 13 proposed properties to the south are indicatively shown to be smaller units helping to provide an active frontage along the eastern side of the proposed vehicular access into the wider scheme. Again, the properties are shown to be served by sufficient amenity spaces, parking and supplementary planting. Sufficient spacing would be retained to those proposed units to the north and existing residential dwellings to the south-east.
- 8.44 The application documents outline that all the new properties will be of the same type and materiality of those dwellings proposed within the 190 unit scheme ensuring consistency across the whole development.
- 8.45 In summary, the indicative plans sufficiently demonstrate that the proposed additional housing can be accommodated on the site in a manner that can provide a good level of amenity for future and existing residents whilst respecting the character, form and spacing of the consented scheme.
- 8.46 As noted above, the development does sit within the red line site of the consented development, and due to this, the archery club is no longer taking on the northern parcel of land (they have found an alternative site nearby) and the public open space to be sited within the southern parcel would be removed. In this respect, Local Plan Policy HP 5 states a requirement for a minimum of 10% of the gross site area being open space. This is comfortably achieved with the consented scheme and the proposal for an additional 37 units serves to increase the amount of public open space across the site by 1.14ha. To reiterate that this is due to the loss of the archery club, making more of the northern area of the site publicly accessible. When considering the proposals alongside the wider consented scheme, a total of 6.74ha of POS is set to be delivered (if including the banks) which equates to 43.5% of the total site area. As such there is no concern regarding the loss of open space across the wider development site.

#### Visual Impacts/Landscaping

- 8.47 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.
- 8.48 Adopted Policy PPL3 confirms the Council will look to protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance. Adopted Policy SPL3, Part A (c) requires that development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.
- 8.49 The application site is currently being worked with ground levels being altered. There are no trees in the main body of the site. In terms of the impact of the development proposal on the local landscape character the development has the potential to have an adverse impact on the character and appearance local landscape.
- 8.50 The application site forms part of the St Osyth and Bentley Heaths Landscape Character Area (LCA). The LCA is a landscape generally situated on elevated land with highly productive arable fields on the open plateau divided by low, gappy hedgerows with hedgerow trees. Ancient Woodlands, such as Riddles Wood to the north, form a backdrop to views and often comprise of Sweet Chestnut

coppice with Oak standards. It is acknowledged that the low-lying land comprising the application site is not typical of the LCA however any development has the potential to adversely affect both the character and visual qualities of the local landscape.

- 8.51 The land immediately adjacent and to the west of the application site falls within the St Osyth Coastal Slopes LCA. The LCA is a narrow strip of land forming the setting to St Osyth and Brightlingsea Marshes. The wider landscape is dominated by large scale regimented fields divided by intermittent hedges. However, the application site and the land closest to the application site within the St Osyth Coastal Slopes LCA is heavily influenced by historical quarrying works. Tree cover is restricted to shelter belts, small mixed farm coppices and the designed landscape of St Osyth Priory and that of Martins Farm Country Park.
- 8.52 To show the impact of the proposed development on the local landscape character the applicant has provided a detailed Landscape and Visual Impact Assessment (LVIA). The LVIA sets out the baseline qualities of the landscape and quantifies the likely effect on both the character and visual qualities of the landscape. The LVIA has been carried out in accordance with guidance contained in the Guidelines for Landscape and Visual Impact Assessment Third Edition 2013 produced by the Landscape Institute and Institute of Environmental Management and Assessment.
- 8.53 The information contained in the LVIA is considered to accurately reflect the current condition, quality and value of the landscape as well as its capacity to absorb the proposed development.
- 8.54 The receptor viewpoints selected show both internal views of the site (viewpoints A to F) and views from the wider landscape showing the degree to which the site can be seen from the surrounding area (viewpoints 1 to 16).
- 8.55 In terms of its impact on the local landscape the site is actually and potentially most visible from viewpoints 1 to 5. Considering the extant planning permission to develop much of the adjacent land it is considered that views of the proposed development from viewpoints 1 and 2 will be seen against development that has already been granted planning permission and consequently the additional proposed development will not cause significant harm to the local landscape character.
- 8.56 Views from viewpoints 7a and 7b are from the highway and will also be seen against consented development. Views will be both fleeting and partially screened by boundary vegetation and will not cause significant harm to the local landscape character.
- 8.57 Regarding views into the site from viewpoints 3, 4 and 5, to the north of the site, the Council's Trees and Landscaping Officer originally stated that it is not quite clear to what extent the proposed dwellings will be seen above Wellwick Farmhouse, associated buildings and boundary vegetation, due to changes in ground levels. Section 4.1.2 of the LVIA states that 'the majority of the site will be lowered to match the ground level of the consented scheme, and section 4.1.1 states that buildings will be up to 14m tall.
- 8.58 Subsequently, computer generated images have been produced with the proposed dwellings superimposed to show the extent to which dwellings are visible on the skyline. This shows that the dwellings area would only be partially visible in limited views over the existing buildings and mature vegetation present on the perimeters of the site.
- 8.59 Although the site is just about visible from viewpoint 6, views are distant, and any development would form only a small part of the overall view. From the remainder of the viewpoints, it is accepted that views are either totally obscured by intervening vegetation or buildings or are so distant that the proposed development will be barely discernible in the landscape.
- 8.60 In terms of soft landscaping precise details will be secured as part of the reserved matters submission. In this respect any soft landscaping should aim to soften, screen and enhance the appearance of the development. A scheme consistent with the consented scheme will be advised,

whist having regard to the increased public open space across the northern development parcel.

- 8.61 In conclusion, it is considered that the application site is considered to contribute in a limited way to the local landscape character, given that the parcels of land are situated between an existing caravan site to the north, the consented scheme and further linear development along Colchester Road to the south-east. As such it is considered that the outline proposals would not cause material harm to the local landscape character or views and visual amenity of the area.

#### Heritage Considerations

- 8.62 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on the Local Planning Authority to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest.
- 8.63 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on the Local Planning Authority to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 8.64 Paragraph 212 of the NPPF 2025 confirms that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 8.65 Paragraph 215 of the National Planning Policy Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 8.66 Policy PPL9 of the Tendring District Local Plan 2013-2033 and Beyond Section 1 states that proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric.
- 8.67 As outlined above, the enabling development proposed at the Wellwick site, i.e. the 37 units, will effectively fund specific restoration works to the Abbott's Lodgings, East Wing and South Wing of Darcy House within the Priory precinct area, costing circa £1.6m. These works have however been forwarded funded via a family loan, on a 0% interest basis, to cover the works until such a time that further enabling development is secured. This arrangement was agreed via a letter from TDC dated 27th March 2023 as it was recognised that this would facilitate the delivery of the works earlier than would otherwise be achievable without the loan, facilitating the opening up of Darcy House for wedding and events to generate revenue as part of the overall business plan for the Priory, noting the difficulties experienced to date in securing grant funding.
- 8.68 Historic England have raised several concerns and queries over certain aspects of the enabling development and the wider approach to restoration work at St Osyth Priory, alongside the impacts of the development itself.
- 8.69 In particular Historic England have raised the following concerns and queries, which have in turn been responded to by the developer (response in brackets);

- Discrepancies between the conservation deficit estimates in the 2016 Conservation Deficit report and those reflected in the Business Strategy - i.e. £36.3m in the former compared to £33.7m in the later document.

*(Officer Response - As this relates to the wider conservation deficit for the St Osyth Priory, it is not strictly relevant to the application currently under consideration. However, the developer has confirmed that the correct figure is £33.7m which was contained within the final version of the report provided by BNP Paribas 2016. Again, this is not relevant to the*

*determination of the current application, as the figures pertaining to the enabling works identified as part of this proposal are not questioned and have been the subject of a detailed viability appraisal).*

- Whether all commercial uses that form the basis of the agreed Business Strategy were considered in the 2016 Conservation Deficit Report, i.e. the proposed walled garden spa.  
*(Officer Response - Again, not strictly relevant to the enabling development now under consideration, however, the 2016 report considered various commercial ventures including the wedding venue, events, bed and breakfast, glamping, café and visitor centre. The inclusion of the spa was made after the 2016 report was completed and therefore formed part of the Business Plan from 2019 onwards initially contributing £461k gross profit).*

- It is unclear whether some of the enabling works secured as part of this proposal form part of the overall conservation deficit, as outlined within the agreed cost plan – i.e. internal fit out works / improvements.

*(Officer Response - The enabling works contained within the Darcy House Accelerated Works Table are contained within the agreed cost plan, which informs the overall conservation deficit for St Osyth Priory).*

8.70 In summary, officers are satisfied that the forwarded funded works directly support the agreed Business Plan, specifically the functions and accommodation offering element, which forms one of the three key business functions for the Priory Estate alongside a holiday cottage offering and a visitor attraction. Moreover, officers are satisfied that the works assist in preserving a Grade I listed building and help to deliver the optimum viable use for that building, which facilitates public access and delivery of the agreed Business Plan.

8.71 Having regard to the impacts of the development upon the setting of nearby heritage assets, namely the St Osyth Conservation Area and St Osyth Priory Registered Historic Park, which are situated to the immediate south and west of the site, Historic England have raised concerns over the erosion of the open space around the edge of the wider consented development and the cumulative negative impact and harm this introduces to the significance of the assets named above.

8.72 In response to these concerns, there is a development of 190 houses that will continue and has already changed the setting to these heritage assets. The site no longer forms an area of restored gravel works, but rather a housing development adjacent to The Priory Park. The additional 24 units located on what was proposed to be the archery area is to the rear of the site and it is a piece of land that is sandwiched between the large caravan park to the north and the consented scheme for 190 units to the south. Furthermore, the 13 houses to the southern of the site will consist generally of terrace housing and have been designed to fit in this rural setting looking like farm cottages closer to the road and then blending into the detached vernacular housing contained within the 190 unit scheme. These front 13 units harmonise with the scheme of 190 and the adjacent farm cottages, farm buildings and farmhouse that are located to their east.

8.73 In this respect, officers consider that in reality there is negligible change to the setting of the heritage assets as a result of this development of 24 units, given that proposed units will be located between the approved development, existing Oaklands caravan site and two farmsteads, including existing associated cottages to the south-east.

8.74 The development is therefore, considered to preserve the special character of the St Osyth Priory Registered Historic Park and St Osyth Conservation Area. Notwithstanding this view, the development is considered to demonstrate sufficient public and heritage benefits that would outweigh any 'less than substantial harm' identified by Historic England, namely; enabling development to help to deliver the optimum viable use for the Darcy House (Abbott's Lodgings) building at St Osyth Priory (which facilitates increased public access), 37 dwellings to contribute towards the Council's housing supply and national housing shortage and increased public open space provision across the wider site due to the removal of the private archery club and replacement with areas of public open space.



8.75 Overall, it is considered that, for the reasons outlined above, the development proposed would assist in directly funding priority works at St Osyth Priory, whilst having limiting impacts upon the nearby designated heritage assets. Further, when considered in conjunction with the other public benefits listed, the advantages of the development would outweigh the relatively low level of harm identified and therefore accords with the requirements of the NPPF and local policies outlined above.

#### Highway Safety/Parking

8.76 Paragraph 115 of the NPPF 2025 requires Councils, when making decisions to ensure:

- appropriate opportunities to promote sustainable transport modes can be, or have been, taken up, given the type of development and its location;
- safe and suitable access to the site can be achieved for all users; and
- any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

8.77 Paragraph 116 goes on to say, development should only be prevented or refused on highways rounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.

8.78 Paragraph 109 requires that streets, parking and other transport considerations are integral to the design of schemes and contribute to making high quality places.

8.79 TDLP2 Policy CP1 in the Local Plan states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.

8.80 TDLP2 Policy SPL3 Part B of the 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.

8.81 The proposed site access is off the B1027 Colchester Road, a Priority 2 route within the Essex Functional Hierarchy. The permitted development of 190 units conditioned the delivery of a priority junction off the B1027, to include a right turn lane (Condition 11, Part iii of 20/01124/OUT). This also included the provision of new or upgraded existing bus stops, traffic islands and an upgrade pedestrian footpath linking the development with the village of St Osyth.

8.82 The applicant's transport statement outlines that the proposed additional 37 residential units will generate up to 16 two-way trips in the AM peak hour and 17 in the PM peak hour. This represents just one additional vehicle every 3.5 minutes. This will be imperceptible and will not therefore result in a severe impact upon the highway network.

8.83 ECC-Highways have reviewed the application details and have no objections. They state that the site location in terms of access to public transport and connectivity has already been assessed and the residential use was deemed acceptable in this location as part of the consented application. They request conditions securing the submission of a construction method statement, no occupation of the development until the proposed access works and associated highway improvements are completed (including a 2 metre wide footpath link from the northern development parcel to upgraded bus stops to the north) and the provision of residential travel information packs. These requirements are accepted and will be secured via appropriately worded conditions.

8.84 The request for a 2 metre wide footpath on the eastern side of Colchester Road, to link in with the upgraded bus stops to the north, was initially queried with ECC-Highways. However, they have

confirmed that the highway works package, secured as part of the consented 190 unit scheme, does not include new bus stops to the south but instead proposes upgrades to the existing bus stops to the north, which are adjacent to Oaklands Caravan Park.

- 8.85 Consequently, it is agreed that a 2 metre wide footpath link from the northern development parcel is required to provide improve pedestrian connectivity to these stops.
- 8.86 ECC-Highway also originally requested a condition to secure a reduced speed limit of 40mph along this section of Colchester Road. However, changes to speed limits are part of a separate legal process and, therefore, cannot be secured via the planning process. As such this is now being secured via the S278 Highway Works agreement related to the consented scheme.
- 8.87 The Essex Parking Standards set out the parking requirements for new development. This document dictates that for areas with low connectivity, such as this, 2 and 3 bedroom properties need to be served by 2 parking spaces and 4 bedroom and over will need to be served by 3 spaces. Whilst in outline form, the indicative plans demonstrate that the properties can comfortably achieve this standard either through garages or open bays. There is also a requirement for visitor's spaces which will be secured at reserved matters stage.

#### Impact on Residential Amenity

- 8.88 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.
- 8.89 Section 1 Policy SP7 of the 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. Section 2 Policy SPL 3 Part B requires that new development meets practical requirements and that structures should be designed and orientated to ensure adequate daylight, outlook, and privacy for future and existing residents.
- 8.90 Furthermore, Policy LP4 j. states that new development must provide for private amenity space of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of dwelling and the character of the area.
- 8.91 In this instance the two development parcels are considered to be located a sufficient distance from nearby residential properties as to not cause adverse harm to amenity. In respect of the southern development parcel, the indicative layout shows a gap of approximately 65 metres to the nearest properties to the south-east, with intervening vegetation. To the north, the proposed properties would sit approximately 45 metres from caravans located within Oaklands Holiday Park to the north. Again, there is intervening vegetation in this location to provide screening, and the ground levels have been reduced, which would further reduce any impact to occupiers of the caravans.
- 8.92 In summary, whilst the application is in outline form where layout and scale of the development is yet to be confirmed, it is considered that due to the likely degree of separation between the development and nearby properties, intervening screening vegetation and changes in ground levels, a detailed scheme could be designed to minimise any impact upon amenity to acceptable levels.

#### Drainage

- 8.93 Paragraph 181 of the NPPF 2025 states that, when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 182 goes on to say that developments should incorporate sustainable drainage systems. The systems used should, amongst other things, take account of advice from the lead local flood authority and have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development.

- 8.94 Adopted Local Plan Policy PPL5 requires that all new development must make adequate provision for drainage and sewage treatment and should include sustainable drainage systems (SuDS). Policy SPL3, Part B criterion g), requires that development reduces flood risk and integrates sustainable drainage within development.
- 8.95 It is proposed that the development surface water runoff will be discharged via a piped network to an infiltration swale system at the wider site boundary (within the site ownership), which will provide attenuation storage, cleansing and infiltration of the runoff. The swale will also have an overflow to the existing basin at the northern end of the site, where the runoff will discharge to the ground.
- 8.96 The Lead Local Flood Authority (ECC-SUDs) have reviewed the proposed drainage strategy and have no objections subject to the inclusion of condition securing technical details of the final drainage strategy and maintenance arrangements of the scheme.
- 8.97 In respect of foul drainage, there are no existing public foul sewers located within the immediate site vicinity. However, Anglian Water have assessed the capacity of their network to accept the foul flows from the development. Based on the Anglian Water Assessment Report, it is proposed that the foul discharge from the development will discharge to a proposed pumping station located in the south-west of the site from where it will be pumped to the existing Anglian Water network further south of the site in Colchester Road.

#### Sustainability Credentials

- 8.98 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.
- 8.99 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.
- 8.100 The submitted planning statement confirms that the development is intended to include solar panels, high levels of insulation and air source heat pumps to minimise the impact on the environment. Precise details of the package of sustainability features, including the provision of EV charging points, will be secured via condition.

#### Section 106 of the Town and Country Planning Act 1990

- 8.101 As an enabling scheme the accepted approach is to minimise normal s106 policy requirements to maximise land value capture towards restoration of the heritage asset. Consequently, there would be no requirement for contributions towards healthcare/education enhancements or affordable housing provision. However, a S106 will be required to secure those identified enabling works and details of the proposed public open management and on-going maintenance.

#### *Public Open Space*

- 8.102 TDLP Policy HP5 requires major new residential development to provide a minimum 10% of the gross site area as open space. The development would provide for in excess of the 10% requirement and it is the developer's intention to transfer this area onto a management company to maintain once implemented. The associated S106 will therefore need to include a clause to secure the details and timings of implementation and transfer of the public open alongside associated maintenance responsibilities thereafter.

### *Enabling Works*

- 8.103 As noted above the development is proposed as part of an enabling scheme (i.e. to utilise resulting funds to contribute towards restoration works at the St Osyth Priory). These works include repair, and renovation works to the Abbot's Lodging (East and South Wings) and are listed at section 8.13 above. An appropriately worded clause will be required to secure the necessary trigger points and timings of these works (where not already forward funded) against appropriate stages of occupation of the approved development.

### Ecology and Biodiversity

- 8.104 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

- 8.105 The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.
- 8.106 This development is subject to the general duty outlined above. The following features underscore how the proposal positively impacts biodiversity, offsetting requirements necessary for the development to take place;
- Bird and bat boxes proposed for dwellings.
  - Hedgehogs access to the completed scheme.
  - Native species landscaping outside the development areas and within the developmental area species of recognised wildlife value to be used.

- 8.107 Therefore, the development on balance and with consideration of the impact of the development and baseline situation on site, does conserve and enhance biodiversity interests.

### Biodiversity net gain

- 8.108 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).
- 8.109 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.
- 8.110 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.

- 8.111 An indicative biodiversity net gain plan has been provided which concludes that, against the baseline position, to achieve a gain of 0.94 (10.05%) habitat units on site, the creation of 2.1 hectares of moderate condition modified grassland, 0.085 hectares of moderate condition mixed scrub, and the planting of 72 small trees within the areas of Public Open Space will be required. Moreover, to achieve a gain in 0.27 hedgerow units (10.36%) on-site, the report recommends the retention of the existing hedgerow and treeline on site as well as the creation of 0.035 km of species-rich native hedgerow in good condition within open space. The precise details of the BNG gain plan, including its implementation and monitoring will be secured by condition and/or legal agreement where relevant.

#### Protected Designated Habitats

- 8.112 The site falls within the recreational Zone of Influence (ZOI) of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 8.113 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. As such a condition (or via a legal agreement, whichever is relevant) is recommended 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.

#### Protected Species

- 8.114 In accordance with Natural England's standing advice the application site and surrounding habitat have been assessed for potential impacts on protected species.
- 8.115 Many species are scoped out of the submitted Ecology Assessment (Hopkins Ecology, July 2024) based on habitat conditions and / or direct survey evidence, including:
- Great crested newts, based on distances from ponds within the Priory Estate and the negative e-DNA test results from the pond within the Wellwick Land.
  - Reptiles, based on the patches of scrub and cover being outside of the works area.
- 8.116 The species scoped into the present survey area are:
- Bats (roosting). A single tree in the northern hedgerow has low roost potential.
  - Bats (foraging). A small assemblage of foraging individuals is likely to be present.
  - Nesting birds. Common and widespread species in the hedgerow, scrub and longer sward.
  - Hedgehogs. Present locally and may forage over the Site and shelter in the denser scrub.
  - Invertebrates. The sloping bank is likely to be of value to species requiring hot open swards, but the species-poor herb component limits its likely value.
- 8.117 Based on the loss of semi-improved (species-poor) grassland, albeit including areas previously proposed for the archery club, the current proposals are therefore considered to be of minor

ecological significance.

- 8.118 Given that the areas of denser scrub lie outside of the works area, the recommendation for construction phase mitigation is:
- Nesting birds. Vegetation clearance should either be outside of the nesting bird season which runs from March to August inclusive or otherwise follow an inspection no more than 48 hours prior to works commencing, to confirm nesting birds are absent.
- 8.119 Place Services (Ecology) have reviewed the submitted document titled: Great Crested Newt DNA Testing Result of the Pond (Hopkins Ecology, July 2024) and the submitted Ecology Assessment (Hopkins Ecology, April 2024) and have confirmed that they are satisfied that there is sufficient ecological information available to support determination of this application.
- 8.120 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. Moreover, the mitigation measures identified in the Ecology Assessment (Hopkins Ecology, April 2024) will be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly those recorded in the locality.
- 8.121 Place Services also support the proposed reasonable biodiversity enhancements for protected and Priority species, which have been recommended to secure net gains for biodiversity. The reasonable biodiversity enhancement measures will be outlined within a separate Biodiversity Enhancement Strategy and are to be secured by a condition on the planning permission.
- 8.122 This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 (as amended) and delivery of mandatory Biodiversity Net Gain.
- 8.123 In compliance with relevant wildlife legislation and planning policies, the development will adhere to best practices to protect and enhance the habitat for these protected species.

#### *Ecology - Conclusion*

- 8.124 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.

### **9. Planning Balance/Conclusions**

- 9.1 Although there is some conflict with the Council's Housing settlement strategy, as the site lies outside of a defined settlement boundary, the benefits identified from the scheme delivery and associated enabling development are considered to demonstrably outweigh the conflict.
- 9.2 Moreover, the principle of resident development in this location is already established and the access point is already consented. The proposal would represent a sustainable and proportionate development which, like the consented scheme, would serve as enabling development to fund further restoration works at St Osyth Priory. In this respect there is an identified and agreed need for such enabling development.
- 9.3 Historic England initially raised concerns regarding the enabling approach at St Osyth Priory and posed some questions. These were responded to, and on that basis, officers are satisfied that the forwarded funded works directly support the agreed Business Plan for St Osyth Priory. Additionally,

officers are reassured that the works assist in preserving a Grade I listed building and help to deliver the optimum viable use for that building, which facilitates improved public access at St Osyth Priory.

- 9.4 In respect of the impacts of the development upon nearby heritage assets, the construction of a further 37 units on this site, in the manner outlined on the indicative plans provided, would not result in significant harm to the setting of either of these assets. There are also no objections from ECC-Highways, Place Services (Ecology), the Lead Local Flood Authority (ECC-SUDs) or Anglian Water.
- 9.5 In summary, the development would accord with the requirements of the National Planning Policy Framework (NPPF) paragraph 221, as the benefits for the proposed for enabling development, which do result in some degree of conflict with local plan policies governing the siting of new housing development, would help to secure the future conservation of a heritage asset and provide for extra housing in a sustainable location, whilst demonstrably outweighing the disbenefits of departing from those local plan policies.
- 9.6 **Therefore in the absence of any overriding objections from any statutory consultees, the development is recommended for approval subject to the completion of a legal agreement outlining the various obligations listed below and the conditions listed at section 10.2 of this report.**

## 10. Recommendation

### 10.1 Approval (including S106 requirements)

**Recommendation:** Outline Approval subject to S106

- 5) On appropriate terms below and those as may be deemed necessary to the satisfaction of the Head of Planning and Building Control to secure the completion of a legal agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 dealing with the matters as summarised at paragraph 10.2:
- 6) That the Head of Planning and Building Control be authorised to grant outline consent subject to the agreed section 106 agreement and conditions as stated at paragraph 10.3, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 7) The informative notes as may be deemed necessary.

**Or;**

- 8) That in the event of the Planning obligations or requirements referred to in Resolution (1) above not being secured and/or not secured within 12 months that the Head of Planning and Building Control be authorised to refuse the application on appropriate grounds at their discretion.

### 10.2 S106 Legal Agreement - Heads of Terms

CATEGORY	TERMS
Enabling Works	Secure enabling works outlined in enabling works table at 8.13 above. Trigger points/Timing of works to be confirmed.
Public Open Space	Details of Transfer / Management Responsibilities.
RAMS	£169.45p per dwelling <b>(if applicant decides to secure via legal agreement rather than</b>



	<b>condition - see Condition 7 below).</b>
BNG	Securing precise details of net gain plan (10% gain) and the implementation, management and monitoring of such plan <b>(if applicant decides to secure via legal agreement rather than condition – see Conditions 8 and 9 below).</b>

### 10.3 Conditions and Reasons

#### 1 COMPLIANCE REQUIRED: TIME LIMIT FOR RESERVED MATTERS APPLICATION

**CONDITION:** Application for approval of all outstanding and the final reserved matters for any phase of the development must be made to the Local Planning Authority not later than the expiration of three years beginning with the date of this permission, and the development must be begun not later than the expiration of two years from the final approval of the reserved matters for the relevant phase or, in the case of approval on different dates, the final approval of the last such matter to be approved.

**REASON:** To comply with the requirements of Section 92 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 reserved matters need to be received by the Local Planning Authority within the timeframe provided. Failure to comply with this condition will result in the permission becoming lapsed and unable to be carried out. If there is no phasing plan, this condition is considered to apply to the whole site as a single phase. 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 APPROVAL OF RESERVED MATTERS

**CONDITION:** No development in any phase shall commence until approval of the details of:- landscaping, appearance, layout and scale (hereinafter called "the reserved matters") for that particular phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and agreed order of phasing.

**REASON:** To enable the Local Planning Authority to secure an orderly and well designed development in accordance with the character and appearance of the neighbourhood and in accordance with the Development Plan. This condition is required to be agreed prior to the commencement of any development in accordance with proper planning principles to allow public engagement on the outstanding reserved matters and ensure no significant adverse harm results.

**NOTE/S FOR CONDITION:**

This condition requires approval of all reserved matters as may be listed to be agreed in writing prior to any commencement of the approved development. Failure to comply with this condition may result in the permission becoming lapsed and unable to be carried out. If there is no phasing plan, this condition is considered to apply to the whole site as a single phase. The reserved matters that may be listed above are further defined under government guidance as follows:-

**LANDSCAPING:** The treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features.

**APPEARANCE:** The aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.

**LAYOUT:** The way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.

**SCALE:** The height, width and length of each building proposed within the development in relation to its surroundings.

### 3 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.

- Red line site plan drawing is CC-0175-ABP010-6-1 C (Received 02/05/2024)
- 208104 21 REV E (Access/Highway Works Plan)

**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.

### 4 FURTHER APPROVAL - CONSTRUCTION MANAGEMENT TO BE AGREED (PRE COMMENCEMENT)

**CONDITION:** Prior to the commencement of development details of a construction methodology and timetable shall be submitted to and approved, in writing, by the Local Planning Authority. This shall

incorporate the following information:-

- a) Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site.
- b) Details of the loading/unloading/storage of construction materials on site, including details of their siting and maximum storage height.
- c) Details of how construction and worker traffic and parking shall be managed. This shall include the intended routing of HGV traffic on the surrounding road network, programme of restoration works to soft highway verges, and any directional signs to be installed and where.
- d) Details of any protection measures for footpaths and trees surrounding the site.
- e) Details of all access points to be used to access the site during construction only and any staging of provision.
- f) Details of the scheduled timing/phasing of development for the overall construction period.
- g) Details of measures to control the emission of dust and dirt during construction and including details of any wheel washing to be undertaken, management and location it is intended to take place.
- h) Details of the siting of any on site compounds and portaloo's.
- i) Details of the method of any demolition to take place, including the recycling and disposal of said materials resulting from demolition.
- j) Site waste management plan (that shall include reuse and recycling of materials)
- k) Scheme for sustainable construction management to ensure effective water and energy use.
- l) Scheme of review of complaints from neighbours.
- m) Registration and details of a Considerate Constructors Scheme to be joined prior to the commencement of development, and confirmation of registration to be provided in writing to the LPA before the start of works, or similar scheme for which full details shall be provided and complied with
- n) Details on the provision, location and management of any show home/s or reception, including opening times, parking and advertisements (including flags and directional signs).
- o) Before and after condition survey to identify defects to highway in the vicinity of the access to the site and where necessary ensure repairs are undertaken at the developers expense when caused by the developer.

The said methodology as may be approved shall be implemented in its entirety and shall operate as may be approved at all times during construction.

REASON: To minimise detriment to nearby residential and general amenity by controlling the construction process to achieve the approved development, and to ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety. This condition is required to be agreed prior to the commencement of any development as any construction process, including site preparation, by reason of the location and scale of development may result in adverse harm on amenity.

**NOTE/S FOR CONDITION:**

You are strongly advised to discuss this condition with the Local Planning Authority and if possible/available local residents likely to be affected by this development prior to submission of details. Please note the provisions of the Highways Act 1980 Para 131 are likely to apply and may need to be discussed with the Highways Authority, this legislation includes details and penalties for any damage and/or alterations to the highway including verge, highway signage and surface materials of pavement/footpath and carriageway.

## 5 RESIDENTIAL TRAVEL INFORMATION PACK

CONDITION: Prior to first occupation of each dwelling, a Residential Travel Information Pack (travel pack) shall be provided to each dwelling for use of its first occupiers. The travel pack shall be agreed,

in writing, by the Local planning authority prior to provision and shall include a minimum of six one day travel vouchers for use with a local transport operator.

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

## 6 ACCESS/HIGHWAY WORKS

CONDITION: No occupation of the development hereby permitted shall take place until the following access/highway works have been completed in full and in accordance with precise details of which shall have been submitted to and agreed in writing by the Local Planning Authority.

- a) The highway works as shown in principle on planning application drawing number 208104 21 Rev. E. Works include:
  - i) The removal of the existing access and lay-by;
  - ii) A priority junction off the B1027 to provide access to the proposal site. Junction to include 2 no. 3 metre wide footways and a 160 x 2.4 x 160 metre visibility splay maintained clear to the ground at all times;
  - iii) A right turn lane at the priority junction mentioned above to include 2no. pedestrian central islands; and
  - iv) A bell mouth access off Colchester Road to provide access to the proposal site. Bell mouth to include kerbed radii and a 70 x 2.4 x 70 metre visibility splay maintained clear to the ground at all times
- b) A new footway connection from the proposed northern development parcel, with a maximum of 2-metre-wide footway provided on the east side of the B1027 Colchester Road providing a connection to the existing bus stops north of the proposal site.

REASON: To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

## 7 PRE-COMMENCEMENT CONDITION: MITIGATION TO BE AGREED, RAMS (**Condition applied if RAMS not secured via the associated legal agreement instead**).

CONDITION: The hereby approved development shall not be first commenced until 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 and secure 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 to the satisfactory of the Local Planning Authority. For any on site mitigation proposals approved, it shall be carried out in full prior to first occupation, 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 meaning the development must mitigate the burden of development regardless of scale of impact.

### 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) may

be 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 District 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 District Council before submitting any request to discharge this condition. Should this be the route chosen, failure to conclude the agreement within the discharge of condition application timeframe may lead to the refusal to discharge the condition.

Please note if there are other obligations needed for this development, for example to secure monitoring and maintenance of a Biodiversity Net Gain Plan, you may wish to combine these together as one agreement. Furthermore, please also note a legal agreement will include legal fees and may require obligations to secure monitoring and associated fees.

## 8 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 24/01384/OUT 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:

- i. Enhancement and restoring biodiversity on-site (within the red line boundary of a development site).
- ii. 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.
- iii. 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.

#### 9 FURTHER APPROVAL: BIODIVERSITY NET GAIN PLAN MANAGEMENT & MONITORING PLAN **(Condition applied if BNG HMMP not secured via the associated legal agreement instead).**

CONDITION: No development shall commence until a 30 year Habitat Management and Monitoring Plan (HMMP), prepared in accordance with the approved Biodiversity Gain Plan under Condition 8 has been submitted to and approved in writing by the local planning authority and shall contain the following:

- a) description and evaluation of the planned habitat works for the creation and/or enhancement of the onsite habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
- b) the management measures to maintain the onsite habitat creation and/or enhancement works for a period of at least 30 years from the completion (defined for this purpose as first use and/or occupation unless agreed in writing by the LPA) of the development including:
  - i) ecological trends and constraints on site that may influence management;
  - ii) aims, objectives and targets for management e.g. links with local and national species

- and habitat action plans;
  - iii) a description of the management operations necessary to achieving aims and objectives;
  - iv) prescriptions for management actions;
  - v) preparation of a works schedule, including annual works schedule;
  - vi) mechanisms of adaptive management to account for necessary changes in work schedule to achieve the required targets;
- c) details of the monitoring methodology, to measure the effectiveness of the management of the onsite habitat creation and/or enhancement works together with the timetable for each element of the monitoring programme including when first implemented with provision for monitoring reports to be provided to the local planning authority in writing on year 1, 2, 3, 5, 7, 10, 15, 20, 25 and 30, with biodiversity reconciliation calculations at each stage; and
- d) details of the roles and responsibilities of the people or organisation(s) delivering the HMMP including implementation and monitoring;

The approved HMMP shall be strictly adhered to at all times and implemented in full for its duration no later than the first use/occupation of the development.

REASON: To enhance biodiversity in accordance with the National Planning Policy Framework and to achieve the Biodiversity Net Gain objectives set out in Schedule 7A of the Town and Country Planning Act 1990 (as amended).

#### 10 ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

CONDITION: All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecology Assessment (Hopkins Ecology, April 2024) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECOW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

REASON: To conserve and enhance protected and Priority species and 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).

#### 11 FURTHER APPROVAL REQUIRED – BIODIVERSITY ENHANCEMENTS

CONDITION: Prior to any works above slab level 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 to achieve stated objectives;
- c) locations 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 s40 of the NERC Act 2006 (as amended).

## 12 FURTHER APPROVAL – WILDLIFE SENSITIVE LIGHTING SCHEME

Prior to occupation a lighting design scheme for biodiversity 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 lighting contour plans and 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).

## 13 FURTHER APPROVAL - SUDS WATER DRAINAGE DETAILS

CONDITION: No development shall commence (except demolition) until details of a surface water management scheme/plan, detailing how surface water and storm water will be managed on the site during construction and during the lifetime of the development, is submitted to and agreed in writing by the local planning authority. The scheme shall include but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 45% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 45% climate change critical storm event.
- Provision of 10% urban creep allowance applied to the impermeable areas used to calculate the required storage, in accordance with BS8582.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- An updated drainage strategy incorporating all of the above bullet points including matters already approved and highlighting any changes to the previously approved strategy.

Unless a timetable is agreed as part of the surface water management scheme submitted, no part of the development shall be first occupied or brought into use until the scheme is fully installed and is functionally available for use, unless alternative timing for installation is otherwise agreed in writing by the Local Planning Authority. The drainage scheme shall thereafter be maintained as approved.

REASON: To safeguard the ground water environment and minimise the risk of flooding. This condition is required to be agreed prior to the commencement of any development as any construction process, including site preparation, by reason of the location and scale of development may result in adverse harm by reason of flood risk.

NOTE/S FOR CONDITION:



This condition shall engage and requires details to be agreed prior to the commencement of development. This condition is imposed to ensure the potential impact on a sensitive area is considered and harm avoided that may be detrimental to amenity and the environment.

#### 14 FURTHER APPROVAL – SUDS MAINTENANCE

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

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

REASON: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

#### 15 FURTHER APPROVAL - FOUL WATER DRAINAGE DETAILS

CONDITION: Full details of foul water drainage shall have been submitted to and approved, in writing, by the Local Planning Authority prior to the beginning of any works to the building it would serve are commenced. No part of the building/s shall be first occupied or brought into use until the agreed method of foul water drainage has been fully installed and is functionally available for use for that building/s. The foul water drainage scheme shall thereafter be maintained as approved.

REASON: To safeguard the ground water environment from harm.

##### NOTE/S FOR CONDITION:

This condition shall engage and requires details to be agreed prior to the commencement of works to the building/s approved. This condition is imposed to ensure the potential impact on a sensitive area is considered and harm avoided that may be detrimental to amenity and the environment. This condition as detailed will apply to the development at all times once agreement is obtained unless varied or removed legally.

#### 16 AGREEMENT OF LOCAL RECRUITMENT STRATEGY

CONDITION: No above ground works shall commence until a Local Recruitment Strategy has been submitted to and approved in writing by the Local Planning Authority. The Local Recruitment Strategy shall include details of how the applicant/ developer shall use their reasonable endeavours to promote and encourage the recruitment of employees and other staff in the locality of the application site, for the construction of the development. The approved Local Recruitment Strategy shall be adhered to thereafter.

REASON: To promote and encourage the recruitment of employees and other staff in the locality of the application site.

##### NOTES FOR CONDITION:

Locality of the application site is taken to refer to the administrative boundaries of Tendring District Council unless otherwise specified and agreed in writing by the Local Recruitment Strategy.

#### 17 AGREEMENT OF MEASURES TO IMPROVE SUSTAINABILITY OF DEVELOPMENT

CONDITION: Concurrent with the first reserved matter application a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include as a minimum:-

- An electric car charging point per dwelling
- Agreement of a scheme for water conservation including greywater recycling and rainwater capture/re-use for new dwellings.
- Agreement of a scheme to achieve as far as possible a water consumption rate of not more than 110 litres, per person, per day for new dwellings.
- Agreement of heating of each dwelling/building
- Agreement of scheme for waste reduction
- Provision of a fibre optic broadband connection to the best possible speed installed on an open access basis and directly accessed from the nearest exchange, incorporating the use of resistant tubing. (If the applicant is unable to achieve this standard of connection, and can evidence through consultation that this would not be possible, practical or economically viable an alternative superfast wireless service will be considered.)

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

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

#### NOTES FOR CONDITION:

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

Broadband provision is included to ensure the development is able to be equipped with high speed broadband to enable opportunities for web-based communication and homeworking reducing the need for unsustainable travel.

A water consumption rate of not more than 110 litres, per person, per day adopted as Planning Policy and as imposed by this condition will directly change the building regulations water consumption rate to match as a result of this policy. The introduction of effective utilities, rainwater capture for watering plants, aerators to taps and other water saving options can be considered.

## 18 FURTHER APPROVAL – GROUND LEVELS

CONDITION: Concurrent with the first reserved matters application, details of the proposed finished floor levels; ridge and eaves heights of the buildings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding property. The development shall be carried out as approved.

REASON: To ensure a satisfactory relationship between the various components of the development and between the site and adjoining land. To ensure that construction is carried out at a suitable level having regard to drainage, access, the appearance of the development, any trees or hedgerows and the amenities of neighbouring properties.

## 19 AGREEMENT OF HOUSING MIX

CONDITION: Concurrent with the first reserved matters application, the housing mix both in terms of house type and number of bedrooms for both market and affordable housing shall be submitted, in writing, for approval by the Local Planning Authority and carried out entirely as may be approved. The size of bedrooms shall comply entirely with the nationally adopted "Technical housing standards – nationally described space standard".

REASON: To ensure 1) a mix of dwelling sizes to reflect the overarching vision for growth within the District and the evidence of housing need contained in the latest Strategic Housing Market Assessment 2) to allow for consideration of the development's impact on local highways.

### NOTES FOR CONDITION:

The housing mix shall broadly reflect the housing need identified in the latest Strategic Housing Market Assessment unless there are specific housing mix requirements for a particular site, as set out in site-specific policies in the Local Plan, or genuine physical or economic viability reasons why this mix cannot be achieved.

## 10.4 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. Also, in determining this application the LPA have identified matters of concern within the application (as originally submitted) and negotiated, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the LPA has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

### Highway Informatives

Prior to any works taking place in the highway, the developer should enter into an S278 agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.

All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible).

All highway related details should be agreed with the Highway Authority.

## 11. Additional Considerations

### Equality Impact Assessment

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

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

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

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

### Human Rights

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

### Finance Implications

- 11.7 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 11.8 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

## **12. Declaration of Interest**

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

## **13. Background Papers**

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