



PLANNING COMMITTEE

DATE: Tuesday, 13 November 2018
TIME: 6.00 pm
VENUE: Council Chamber, Council Offices,
Thorpe Road, Weeley, CO16 9AJ

MEMBERSHIP:

Councillor White (Chairman)
Councillor Heaney (Vice-Chairman)
Councillor Alexander
Councillor Baker
Councillor Bennison
Councillor M Brown

Councillor Cawthron
Councillor Everett
Councillor Fowler
Councillor Hones
Councillor McWilliams
Councillor Turner

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Meeting papers can be provided, on request, in large print, in Braille, or on disc, tape, or in other languages.

For further details and general enquiries about this meeting, contact Charlotte Cooper on 01255 686007.

DATE OF PUBLICATION: Tuesday, 6 November 2018

AGENDA

1 Apologies for Absence and Substitutions

The Committee is asked to note any apologies for absence and substitutions received from Members.

2 Minutes of the Last Meeting (Pages 1 - 8)

To confirm and sign as a correct record, the minutes of the meetings of the Committee, held on 16 October 2018 and 22 October 2018.

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests or Personal Interest, and the nature of it, in relation to any item on the agenda.

4 Questions on Notice pursuant to Council Procedure Rule 37

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the Tendring District **and** which falls within the terms of reference of the Committee.

5 A.1 - 17/02162/OUT-Land South of Thorpe Road, Weeley, CO16 9AJ (Pages 9 - 48)

Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.

6 A.2 - 17/01229/OUT-Land Adjacent and to the Rear of 755 and 757 St Johns Road, Clacton-On-Sea, CO16 8BJ (Pages 49 - 90)

Outline application (all matters reserved except means of access) for the redevelopment (including demolition) of the site for up to 950 residential units (including affordable housing) with a new Neighbourhood Centre comprising a local healthcare facility of up to 1500sqm NIA and up to 700sqm GFA for use classes A1 (shops), A3 (food and drink) and/or D1 (community centre); a 2.1ha site for a new primary school; and associated roads, open space, drainage, landscaping and other associated infrastructure.

7 A.3 - 17/01181/OUT-Land to South of Long Road and West of Clacton Road, Mistley, CO11 2HN (Pages 91 - 126)

Outline application with all matters reserved, other than strategic access points onto the public highway, for the erection of up to 485 dwellings, up to 2 hectares of employment land (A2/A3/B1/B2; B8; D1 uses), with associated public open space and infrastructure.

- 8 **A.4 - 18/01230/FUL- 55 Colne Way Point, Clear Bay, St Osyth, CO16 8LL (Pages 127 - 142)**
- Variation of ENE/TEN/119/59 and TEN/1406/88 to allow unrestricted occupation all year round.
- 9 **A.5 - 18/01281/DETAIL- Land at the Junction of Heath Road and Parsonage Lane Tendring, CO16 ODE (Pages 143 - 148)**
- Alternative design to 17/01254/DETAIL incorporating changes to fenestration to all five plots to include removal of triangular windows, insertion of second floor rear Juliette balconies and insertion of rooflights; changes to facing materials on plots; and creation of second floor living accommodation within the roof space of all five plots
- 10 **A.6 - 18/01489/FUL - Land Adjacent to 28 Ashlyns Road, Frinton-on-Sea, CO13 9EU (Pages 149 - 158)**
- Proposed dwelling - to incorporate changes to approval 18/00428/FUL.
- 11 **A.7 - 18/01571/OUT - Land East of Pork Lane, Great Holland, CO13 0JE (Pages 159 - 172)**
- Outline application for the residential development of 0.4 hectares of land for up to five bungalows.
- 12 **A.8 - 18/00379/OUT - 820 St Johns Road, Clacton-on-Sea, CO16 8BS (Pages 173 - 186)**
- Outline application for proposed residential development of 11 dwellings including replacement of existing dwelling (following demolition of 824 St Johns Road).
- 13 **A.9 - 18/01693/FUL- 34 Low Road, Dovercourt, CO12 3TS (Pages 187 - 192)**
- Proposed single storey side extension.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Council Chamber, Council Offices, Thorpe Road, Weeley, CO16 9AJ at 6.00 pm on Tuesday, 11 December 2018.

Information for Visitors

FIRE EVACUATION PROCEDURE

There is no alarm test scheduled for this meeting. In the event of an alarm sounding, please calmly make your way out of any of the fire exits in the hall and follow the exit signs out of the building.

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Your calmness and assistance is greatly appreciated.

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 16TH OCTOBER, 2018 AT 6.00 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors White (Chairman), Heaney (Vice-Chair), Alexander, Baker, Bennison, M. Brown, Cawthron, Everett, Fowler, Hones and McWilliams
Also Present:	Councillors Land (except minutes 67-68), and Nicholls (except minutes 67-68)
In Attendance:	Cath Bicknell (Head Of Planning) Graham Nourse (Planning Manager) Michael Pingram (Planning Officer) Alison Newland (Planning Team Leader) Charlotte Parker (Solicitor (Property, Planning and Governance)) and Charlotte Cooper (Leadership Support Officer)

58. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence submitted on this occasion.

59. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee, held on 18 September 2018, were approved as a correct record and signed by the Chairman.

60. DECLARATIONS OF INTEREST

There were no declarations of interest on this occasion.

61. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were no questions submitted on this occasion.

62. A.1 - 17/01988/FUL - LAND TO THE EAST OF KIRBY ROAD, GREAT HOLLAND, CO13 0HL

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Planning Manager (GN) in respect of the application.

An update sheet was circulated to the Committee prior to the meeting with details of:

- (1) Changes to the wording of the Committee Report, reference had inadvertently been made to the approval of 'outline planning permission' instead of full planning permission.

- (2) The applicant had now agreed to meet the policy compliance required of 30% affordable housing provision.

Peter Jeffrey, the agent on behalf of the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Bennison, seconded by Councillor Alexander and **RESOLVED** that consideration of this application be deferred for more information to be obtained on the following:

1. Street Scene
2. Site Layout (including but not limited to West boundary treatment)
3. Waste bins
4. Car parking
5. Drainage detail

63. A.2 - 18/00678/DETAIL - LAND SOUTH OF STATION ROAD, WRABNESS, CO11 2TH

Members recalled that the outline application 15/01737/OUT for 18 dwellings and provision of a 0.2ha village green with all other matters reserved had been approved by the Committee at its meeting held on 22 March 2016, at which time it had been requested that the reserved matters application be brought back to the Committee for determination.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Planning Manager (GN) in respect of the application.

Parish Councillor Richard Colley, representing Wrabness Parish Council, spoke against the application.

Following discussion by the Committee, it was moved by Councillor Everett, seconded by Councillor Fowler and **RESOLVED** that consideration of this application be deferred for negotiations with the developer to take place regarding:

1. S106 Highway improvements, particularly the footpath to the front of the proposed development
2. Open Space Management
3. Affordable dwelling requires a garage
4. Low level lighting only
5. Location of garage closest to the Village Hall

64. A.3- 18/00379/OUT - 820 ST JOHNS ROAD, CLACTON-ON-SEA, CO16 8BS

Members were made aware that this application had been referred to the Committee as it was contrary to the Development Plan in that it proposed housing outside of the settlement development boundary of the 2007 adopted plan.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Planning Team Leader (AN) in respect of the application.

An update sheet was circulated to the Committee prior to the meeting with details of:

- (1) Correction in relation to Open Space comments
- (2) Changes to the wording of the recommendation on page 50 to read 'That the Head of Planning be authorised to grant planning permission for the development subject to:- a) Confirmation of the need for a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990. Where a need is confirmed this shall be completed within 6 (six) months of the date of the Committee's resolution to approve dealing with the following matters (where relevant): Financial contribution towards public open space.'
- (3) ECC SUDs do not object to the granting of planning permission subject to two conditions.

Peter Le Grys, the agent on behalf of the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Hones, seconded by Councillor Baker and **RESOLVED** that the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to:

- a)
Confirmation of the need for a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990. Where a need is confirmed this shall be completed within 6 (six) months of the date of the Committee's resolution to approve dealing with the following matters (where relevant): 1) Financial contribution towards public open space. 2) 30% affordable housing
 - b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).
- (i) Conditions:**
1. Reserved matters standard conditions
 2. Accordance with approved plans in relation to access
 3. Construction of the vehicular access
 4. Vehicular visibility splays
 5. No unbound materials within 6 metres of the highway boundary
 6. Closure of existing redundant access
 7. Footway width
 8. Construction Method Statement

9. Residential Travel Information Packs
10. Bus stop improvements to bus stop opposite 812 St Johns Road
11. Improvements to St Johns Road footpath at site frontage
12. Contaminated Land condition
13. Recommendations of Preliminary Ecological Assessment
14. Submission of detailed surface water drainage scheme

Surface water drainage maintenance plan

- c) That the Head of Planning (or the equivalent authorised officer) be authorised to refuse planning permission a) in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

65. A.4 - 18/01381/FUL - LAND ADJACENT TO 2 WIVENHOE ROAD, ALRESFORD, CO7 8AD

Members were made aware that this application was before the Committee as one of the applicants is an employee of Tendring District Council.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Planning Officer (MP) in respect of the application.

An update sheet was circulated to the Committee prior to the meeting with details of:

- (1) An additional representation;
- (2) Condition 1 to be amended to 'Standard 3 year time limit'; and
- (3) Proposed additional conditions.

Parish Councillor Ernie Osbourne, representing Alresford Parish Council, spoke against the application.

Ian Spencer, the agent on behalf of the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Cawthron, seconded by Councillor Hones and **RESOLVED** that, contrary to the Officer's recommendation of approval, the Head of Planning (or equivalent authorised officer) be authorised to refuse planning permission for the development due to the following reasons:-

- a) Out of character with locality
- b) Contrary to policies QL9, QL11 and SPL3 (d)

66. A.5 - 18/01281/DETAIL - LAND AT JUNCTION OF HEATH ROAD AND PARSONAGE LANE TENDRING, CO16 0DE

Members were made aware that this application had been removed from the agenda prior to the meeting, and would be put before the Committee to consider in due course.

67. A.6 - 18/1498/LBC - CLACTON TOWN HALL, STATION ROAD, CLACTON-ON-SEA, CO15 1SE

Members were made aware that this listed building consent application had been referred to the Committee as the applicant was Tendring District Council.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Planning Team Leader (AN) in respect of the application.

Following discussion by the Committee, it was moved by Councillor Baker, seconded by Councillor McWilliams and **RESOLVED** that the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to the following conditions;

1. Time Limit – Listed Buildings
2. Approved Plans

68. A.7-18/1318/LBC - 13 ANGEL GATE, WELLINGTON ROAD, HARWICH, CO12 3EJ

Members were made aware that this listed building consent application had been referred to the Committee as the applicant was Tendring District Council.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Planning Officer (MP) in respect of the application.

Following discussion by the Committee, it was moved by Councillor McWilliams, seconded by Councillor Hones and **RESOLVED** that the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to the following conditions;

1. Time Limit – Listed Buildings
2. Approved Plans

The Meeting was declared closed at 9.10 pm

Chairman

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**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON MONDAY, 22ND OCTOBER, 2018 AT 6.00 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors White (Chairman), Alexander, Baker, Cawthron, Everett, Fowler, Hones and McWilliams
Also Present:	Councillors Nicholls, Raby, Stephenson and Bray
In Attendance:	Cath Bicknell (Head of Planning), Ian Ford (Committee Services Manager), Charlotte Parker (Solicitor (Property, Planning and Governance)), Charlotte Cooper (Leadership Support Officer).

69. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillors Heaney, Bennison and M. Brown (with no substitutes).

70. DECLARATIONS OF INTEREST

There were no declarations of interest on this occasion.

71. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were no questions submitted on this occasion.

72. REFERENCE REPORT ; DUST SUPPRESSION AT DEVELOPMENT SITES

The Committee was aware that at the meeting of the Council held on 11 September 2018, the following motion had been moved by Councillor Bray, seconded by Councillor Bush and, in accordance with Council Procedure Rule 12.4, had stood referred to the Committee for consideration and report;

“This Council resolves that:-

1. Subject to there being no objection from the Planning Inspectorate, ALL future planning applications approved by this Council, contain a condition requiring the developer / constructor to take all reasonable steps, using dust suppression techniques to ensure that, as far as possible, existing residents living in near proximity to the construction site are not adversely affected by construction related dust; and

2. If any objection is received from the Planning Inspectorate, that objection will be disclosed fully to Councillors in order that this motion can be amended to take account of any such objection at some future time.”

The Committee were informed that, in accordance with Council Procedure Rule 12.5, Councillor Bray had been invited to the meeting to explain the motion.

Councillor Bray attended the meeting and explained the motion.

The Head of Planning then explained further the relevant planning issues and considerations that had been included within the written report.

Following discussion by the Committee, It was moved by Councillor Cawthron and seconded by Councillor Hones that it be **RECOMMENDED TO COUNCIL** that Council does not support the motion in its original format, which motion on being put to the vote was declared LOST.

Following further discussion by the Committee, It was moved by Councillor Everett, seconded by Councillor Alexander and:-

RECOMMENDED TO COUNCIL that Council does not support the motion in its original format and that instead the following amended motion be approved:-

This Council resolves that, where applicable, for planning applications that are recommended for approval by this Council the following condition should be considered:

“During development the constructor/developer will take all reasonable steps, using dust suppression techniques to ensure that, as far as reasonably practicable, residents living in near proximity to the site are not adversely affected by construction related dust.”

The meeting was declared closed at 7.00 pm

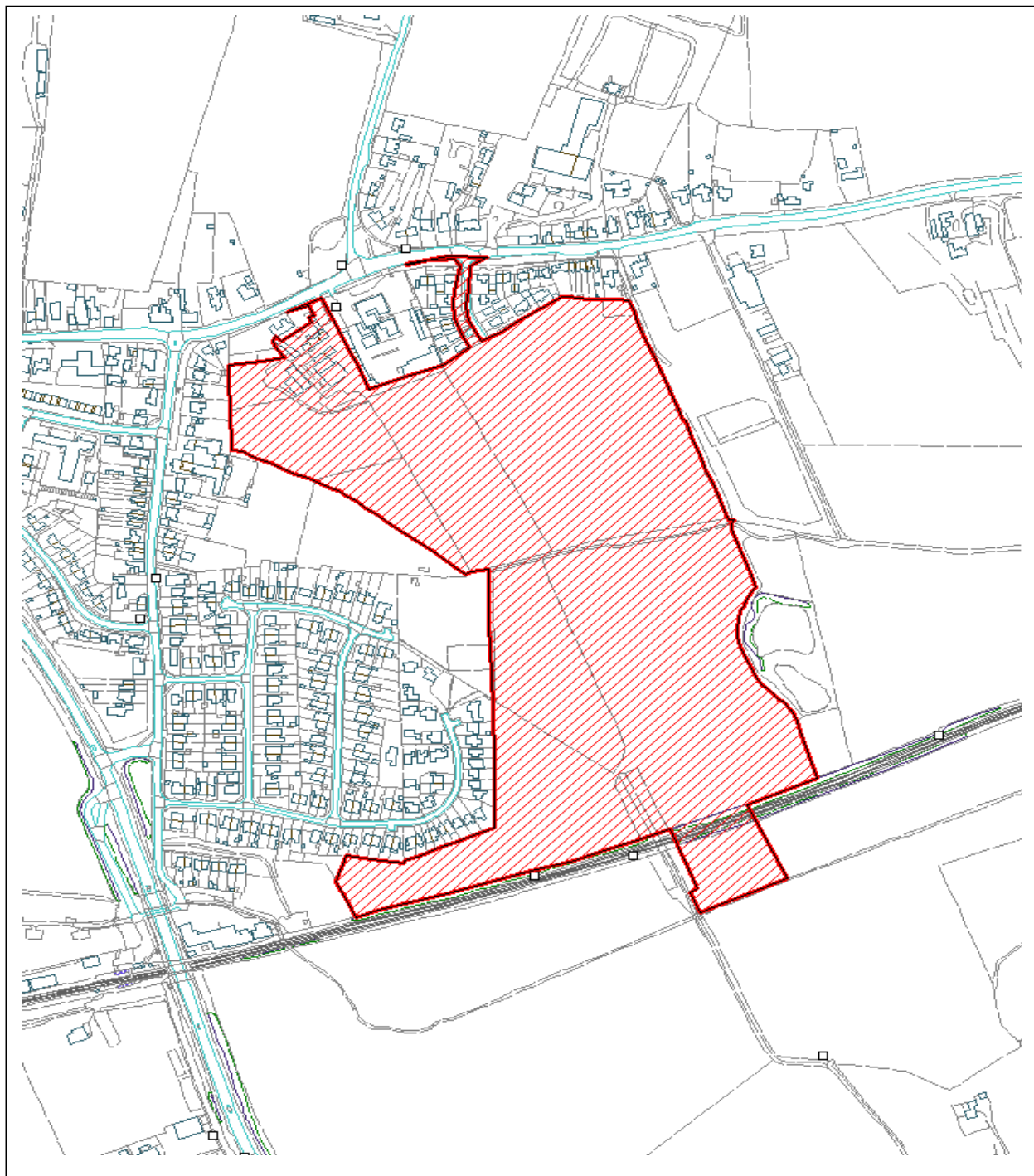
Chairman

PLANNING COMMITTEE

13th November 2018

REPORT OF THE HEAD OF PLANNING

A.1 PLANNING APPLICATIONS – 17/02162/OUT - LAND TO THE SOUTH OF THORPE ROAD, WEELEY, CO16 9AJ



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Application:	17/02162/OUT	Town / Parish: Weeley
Applicant:	Mr & Mrs Lumber & Weeley	
Address:	Land to the South of Thorpe Road, Weeley, CO16 9AJ	
Development:	Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.	

1 Executive Summary

- 1.1 **The proposal is referred back to Planning Committee, following its decision to defer the application on 21 August 2018 until the outcome of the Section 2 examination of the Council's emerging Local Plan. The applicant has sought legal advice and has requested that the Council determine the application now, on the grounds that to defer for an indeterminate period of time would amount to unreasonable behaviour, which would potentially have significant financial implications for the public purse through the costs regime of the appeal process. As with this paragraph, updates since the report was previously published can be found in bold text.**
- 1.2 The application site comprises 17.90 hectares of agricultural land that is situated to the south of the B1033 Thorpe Road, Weeley. This land is allocated for a major residential and mixed-use development in the Council's emerging Local Plan. Outline planning permission is now being sought for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.
- 1.3 The site lies outside of the settlement development boundary for Weeley within the adopted Local Plan, but in the emerging Local Plan it is specifically allocated through Policy SAMU5 for a mix of residential development, employment land, primary school and public open space. The emerging plan has reached a relatively advanced stage of the plan-making process, the site allocation is the subject of a number of unresolved objections, but the Council relies on this to assist in boosting the supply of housing in line with government planning policy and to maintain a five year supply of deliverable housing land. It is therefore considered that the allocation of this land for residential and mixed use development in the emerging Local Plan should carry some weight in the decision making process.
- 1.4 This is an application for outline planning permission with all matters reserved with the exception of access. Other matters including appearance, landscaping, layout and scale are reserved for approval at a later date and therefore this application seeks only to establish the principle of residential and mixed-use development of the site and the arrangements for access. The applicant has provided details of how they propose to access the site off Thorpe Road and the Highway Authority, having modelled the impacts of this development on the highway network as part of the Local Plan process, has no objections

in principle to the proposed arrangements, subject to conditions requiring the approval of further details and certain off-site highway improvements.

- 1.5 Officers are content that subject to the imposition of reasonable planning conditions and S106 planning obligations that the general principle of this level of development on the site is acceptable. It is in keeping with both the site's location on the edge of the village and along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features and curtilage listed buildings. Furthermore, the proposal would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts whilst significantly boosting housing supply within the district in line with the Council's own emerging Local Plan.
- 1.6 The recommendation is therefore to approve outline planning permission subject to the completion of a legal obligation under Section 106 of the Town and Country Planning Act 1990 and a number of controlling conditions.

Recommendation: That the Head of Planning is authorised to grant outline planning permission for the development subject to:-

- a) The completion of a legal agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 (as amended) within 6 months of the date of the Committee's resolution to approve, dealing with the following matters:
1. Affordable Housing – specific tenure and mix to be agreed at the reserved matter/s stage/s;
 2. Education - 2.1ha of land to accommodate a 2 form entry primary school and commensurate nursery; along with financial contributions towards: Early Years & Childcare for 15.2 places; Primary Education for 84 places; Secondary Education School Transport for 56 places;
 3. Healthcare – Financial contribution towards relocation costs for Thorpe Surgery (including its branch surgery at Kirby Cross);
 4. Public Open Space, equipped play areas and Ecology Land (for Slow Worms) - To be transferred to management company and laid out before transfer;
 5. Ecology (off site) - Financial contributions towards off-site ecological mitigation - to improve access within Weeleyhall Wood SSSI;
 6. Highways and Transport – A financial contribution towards the proposed improvements at the A133/B1033/ services and Frating roundabouts as identified in the Tendring Local Plan Highways and Transportation Modelling work;
 7. Public Rights of Way (PRoW) – Footbridge to be constructed over the railway line and transferred to Network Rail on completion with a commuted sum for future maintenance, PRoW 5 to be diverted away from existing level crossing via footbridge on completion;
- b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).

(i) Conditions:

1. Standard 3 year time limit for submission of first reserved matters application (which can

thereafter be submitted in phases to reflect the phasing of the development.

2. Standard 2 year limit for commencement of development following approval of reserved matters.
3. Details of appearance, layout, scale and landscaping (the reserved matters).
4. Layout and phasing plan/programme - to be submitted for approval prior to submission of first Reserved Matters application and to include details of market and affordable housing provision, employment provision (including the re-use of buildings at Ash Farm); and a phasing plan.
5. Development to provide for up to 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge and to demonstrate compliance with the approved Access and Land Use Layout Plans.
6. Residential Travel Information Pack for sustainable transport to be provided for each dwelling on occupation.
7. Car parking spaces and garages to meet ECC standards.
8. No discharge of surface water onto the highway;
9. Construction Method Statement and Traffic Management Plan to submitted and be adhered to throughout the construction period, to provide for:
 - i. Safe access to/from the site
 - ii. The parking and turning 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
 - vi. The safeguarding of Public Rights of Way during construction
 - vii. The erection and maintenance of security hoarding
 - viii. Measures to control the emission of dust and dirt during construction
 - ix. A scheme for recycling/disposing of waste resulting from construction
 - x. Delivery and construction working hours
 - xi. Temporary traffic management/signage
10. Submission and implementation of a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context prior to the commencement of the development of each phase.
11. Submission and implementation of a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution prior to the commencement of the development of each phase.
12. Submission and implementation of 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 prior to the commencement of the development of each phase.
13. Submission and implementation of a foul water strategy prior to commencement of development.

14. A Programme of Archaeological and geoarchaeological evaluation.
15. Acoustic measures to be implemented to minimise noise disturbance to future occupants from the railway line.
16. Contaminated land investigation and remediation for ground gases and contamination hotspots.
17. No piling to be undertaken without prior written agreement.
18. Each reserved matters application to be accompanied by an external lighting scheme, to minimise light pollution and impact upon bats.
19. Each reserved matters application to be accompanied by details of location and design of refuse and recycling bins/storage.
20. Landscaping scheme for each reserved matters application to incorporate detailed specification of hard and soft landscaping works.
21. All trees and hedgerows to be retained to be protected in accordance with BS5837, unless otherwise agreed.
22. Submission of a Construction Environmental Management Plan, to manage the effects of site clearance and construction operations on the natural environment.
23. Protected species mitigation in accordance with: Barn Owl Mitigation report; Bat Activity Survey; Breeding Bird Survey; Reptile Survey and Outline Mitigation Strategy; and Ecological Impact Assessment.
24. Submission of a Landscape and Ecology Management Plan to specify how areas of green space to be managed, including measures to create new habitats, as well as general biodiversity enhancement and safeguarding protected species.
25. Provision of Suitable Alternative Natural Green Space (SANGS) for dog walking.
26. Details and samples of all external roof and wall materials to be submitted with reserved matters applications for each phase.
27. Details of all boundary treatments materials to be submitted with reserved matters application for each phase.
28. Each reserved matters application to be accompanied by details of existing and proposed site levels and finished floor levels – identifying areas of cut and fill and the import or export of materials.
29. Adherence to Secured by Design Principles and certification.
30. Details of conversion of redundant agricultural curtilage listed buildings and demolition of non-curtilage listed buildings to be submitted in accordance with submission of first reserved matters.
31. Highway works as shown in principle on drawing no. 161890-002 Rev A, dated October 2017 to be carried out prior to occupation:
 - Widening of the Barleyfields carriageway;
 - Right-turn lane into Barleyfields to be provided;
 - A pedestrian refuge island to be provided to the west of Barleyfields access road;

- The existing footway along the site frontage to be widened;
 - Adjustments to carriageway width to the east of Crow Lane and removal of the layby;
 - Provision of a right-turn lane into Crow Lane approaching from the east;
 - Homestead access to be constructed with appropriate kerb radii;
 - Right-turn lane into Homestead on approach from the east.
32. The provision of two new bus stops located to the east of Barleyfield's access on both sides of Thorpe Road.
33. The provision of new gateway traffic calming features to be provided on the approaches to Weeley in both directions on the B1033 to enhance the existing 30mph speed limits.

2 Planning Policy

National Policy

National Planning Policy Framework 2018 (NPPF)

- 2.1 The NPPF sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
- an economic role;
 - a social role; and
 - an environmental role.
- 2.3 The NPPF sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.4 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 2.5 Section 5 of the NPPF relates to delivering a sufficient supply of homes. It requires Councils to boost significantly the supply of housing informed by a local housing need assessment. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements including a 5%, 10% or 20% buffer: to ensure choice and competition in the market for land; where the LPA wishes to demonstrate a five year supply of deliverable sites through an annual position statement to account for any fluctuations in the market during that year; or where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply respectively. (NPPF para. 73). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to

be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

- 2.6 Paragraph 38 of the NPPF states “*Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available,... and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.*”
- 2.7 **In paragraph 47, the NPPF also states that decisions on applications should be made as quickly as possible, within the statutory timescales unless a longer period has been agreed by the applicant in writing.**

National Planning Practice Guidance (PPG)

- 2.8 The PPG provides additional planning guidance from Central Government on a range of issues, including, but not limited to: Air Quality; **Appeals**, Climate Change; Design, Flood risk and coastal change; Light Pollution; Natural Environment; Noise; and Travel Plans, Transport Assessments and Statements.
- 2.9 The ‘development plan’ for Tendring is the 2007 ‘adopted’ Local Plan, despite some of its policies being out of date. Paragraph 213 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy.
- 2.10 As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector’s initial findings were published in June 2018. They raised concerns, very specifically, about the three ‘Garden Communities’ proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector’s concerns and the North Essex Authorities are considering how best to proceed.
- 2.11 With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.
- 2.12 **Paragraph 49 of the NPPF states that in context of the Framework, and in particular the presumption in favour of sustainable development, arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:**

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and

b) the emerging plan is at an advanced stage, but is not yet formally part of the development plan for the area.

- 2.13 **Furthermore, in paragraph 50, the NPPF states that refusal of planning permission on grounds of prematurity will seldom be justified even where a draft plan has yet to be submitted for examination. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.**
- 2.14 In relation to housing supply, the NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 2.15 At the time of this decision, the Council is able to demonstrate a robust five year supply of deliverable housing sites (as confirmed in recent appeal decisions) and housing delivery over the previous three years has been comfortably above 75% of the requirement.

Tendring District Local Plan (2007) – as 'saved' through a Direction from the Secretary of State.

Relevant policies include:

QL1: Spatial Strategy: Directs most new development towards urban areas and seeks to concentrate development within settlement development boundaries.

QL2: Promoting Transport Choice: Requires developments to be located and designed to avoid reliance on the use of the private car.

QL3: Minimising and Managing Flood Risk: Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

QL8: Mixed-Uses: Encourages a mix of complementary and compatible uses within town, district and local centres and urban regeneration areas.

QL9: Design of New Development: Provides general criteria against which the design of new development will be judged.

QL10: Designing New Development to Meet Functional Needs: Requires development to meet functional requirements relating to access, community safety and infrastructure provision.

QL11: Environmental Impacts: Requires new development to be compatible with its surrounding land uses and to minimise adverse environmental impacts.

QL12: Planning Obligations: States that the Council will use planning obligations to secure infrastructure to make developments acceptable, amongst other things.

ER3: Protection of Employment Land: States that the Council will ensure that land in employment use will normally be retained for that purpose.

ER7: Business, Industrial and Warehouse Proposals: In considering proposals for the establishment, expansion or change of use to business, industrial or warehousing sites the Council will need to be satisfied that as number of criteria are met covering: the scale and nature of the proposal; impacts upon amenity in terms of appearance, noise, smell, dirt or other pollution; vehicular access and adequate car parking is provided; mains water together with mains sewerage and/or adequate waste water and trade effluent treatment facilities can be made available; the site has acceptable storage facilities; in relation to a change of use, that the existing premises are suitable for the purpose; in relation to new sites, the need for a comprehensive Design Brief, including a landscaping scheme has been considered and where necessary prepared; and opportunities for promoting the movement of freight by rail or through the district's ports are in no way compromised by the development proposed. It goes onto state that in rural locations permission may exceptionally be granted for extensions to existing businesses where new employment opportunities would be generated providing the criteria above can be met and the proposals can be accommodated without an adverse impact on the landscape character of the countryside.

Policy ER10: Small Scale Employment Sites in Villages: Small scale employment development including small enterprise centres will be permitted in villages provided they can meet the criteria set out in Policy ER7.

Policy ER11: Conversion and Re-Use of Rural Buildings: The re-use or conversion of rural buildings for business purposes will be permitted subject to the acceptability of: the type and scale of activity proposed and its compatibility with the character of the surrounding area; the suitability of the building for the use proposed; the level of traffic generated; the effect on the external appearance of the building; the scale and visual impact of any open storage areas associated with the proposed use; the location of the building in relation to other buildings, the landscape and the highway network; the impact on local amenity; and the impact on the historical value of the building. Proposals for the replacement of existing rural buildings which are or have been in lawful business/employment use will be subject to the same criteria.

HG1: Housing Provision: Sets out the strategy for delivering new homes to meet the need up to 2011.

HG3: Residential Development: Within Defined Settlements: Supports appropriate residential developments within the settlement development boundaries of the district's towns and villages.

HG3a: Mixed Communities: Promotes a mix of housing types, sizes and tenures to meet the needs of all sectors of housing demand.

HG4: Affordable Housing in New Developments: Seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing.

HG6: Dwellings Size and Type: Requires a mix of housing types, sizes and tenures on developments of 10 or more dwellings.

HG7: Residential Densities: Requires residential developments to achieve an appropriate density. This policy refers to minimum densities from government guidance that has long since been superseded by the NPPF.

HG9: Private Amenity Space: Requires a minimum level of private amenity space (garden space) for new homes depending on how many bedrooms they have.

COM1: Access for All: Requires publically accessible buildings to provide safe and convenient access for visitors, customers and employees of all abilities.

COM2: Community Safety: Requires developments to contribute toward a safe and secure environment and minimise the opportunities for crime and anti-social behaviour.

COM4: New Community Facilities (including Built Sports and Recreation Facilities): Supports the creation of new community facilities where they are acceptable in terms of accessibility to local people, impact on local character, parking and traffic and other planning considerations.

COM6: Provision of Recreational Open Space for New Residential Developments: Requires residential developments on sites of 1.5 hectares or more to provide 10% of the site area as public open space.

COM21: Light Pollution: Requires external lighting for new development to avoid unacceptable impacts on the landscape, wildlife or highway and pedestrian safety.

COM22: Noise Pollution: Requires noise-sensitive developments including houses and schools to be either located away from, or protected from (through mitigation measures) existing sources of noise.

COM23: General Pollution: States that permission will be refused for developments that have a significant adverse effect through the release of pollutants.

COM24: Health Care Provision: Supports developments for new and improved health care facilities that are in close proximity to the communities they intend to serve, acceptable in highways terms, accessible by a variety of transport modes and provide sufficient car parking.

COM26: Contributions to Education Provision: Requires residential developments of 12 or more dwellings to make a financial contribution, if necessary, towards the provision of additional school places.

COM29: Utilities: Seeks to ensure that new development on large sites is or can be supported by the necessary infrastructure.

COM31a: Sewerage and Sewage Disposal: Seeks to ensure that new development is able to deal with waste water and effluent.

EN1: Landscape Character: Requires new developments to conserve key features of the landscape that contribute toward local distinctiveness.

EN4: Protection of the Best and Most Versatile Agricultural Land: Seeks to ensure that where agricultural land is needed for development, poorer quality land is used as a priority over higher quality land.

EN6: Biodiversity: Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

EN6a: Protected Species: Ensures protected species, including badgers are not adversely impacted by new development.

EN6b: Habitat Creation: Encourages the creation of new wildlife habitats in new developments, subject to suitable management arrangements and public access.

EN12: Design and Access Statements: Requires Design and Access Statements to be submitted with most planning applications.

EN13: Sustainable Drainage Systems: Requires developments to incorporate sustainable drainage systems to manage surface water run-off.

EN23: Development within the Proximity of a Listed Building: Guards against developments that would have an adverse impact on the setting of Listed Buildings.

EN29: Archaeology: Requires the archaeological value of a location to be assessed, recorded and, if necessary, safeguarded when considering development proposals.

TR1a: Development Affecting Highways: Requires developments affecting highways to aim to reduce and prevent hazards and inconvenience to traffic.

TR1: Transport Assessment: Requires major developments to be supported by a 'Transport Assessment' and states that developments that would have materially adverse impacts on the transport system will be refused unless adequate mitigation measures are put in place.

TR2: Travel Plans: Requires 'Travel Plans' for developments likely to have significant transport implications.

TR3a: Provision for Walking: Seeks to maximise opportunities to link development with existing footpaths and rights of way and provide convenient, safe attractive and direct routes for walking.

TR4: Safeguarding and Improving Public Rights of Way: Encourages opportunities to expand the public right of way network. Requires developments affecting an existing public right of way to accommodate the definitive alignment of the path or, where necessary, seek a formal diversion.

TR5: Provision for Cycling: Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use: Requires developments to make provision for bus and/or rail where transport assessment identifies a need.

TR7: Vehicle Parking at New Development: Refers to the adopted Essex County Council parking standards which will be applied to all non-residential development.

TR8: Vehicle Parking at New Development: Refers to the adopted Essex County Council parking standards which will be applied to all non-residential development.

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

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development: Follows the Planning Inspectorate's standard wording to ensure compliance with the NPPF.

SP2: Spatial Strategy for North Essex: Existing settlements will be the principal focus for additional growth across North Essex within the Local Plan period. Development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area. Future growth will be planned to ensure settlements maintain their distinctive character and role. Re-use of previously-developed land within settlements is an important objective, although this will be assessed within the broader context of sustainable development principles, particularly to ensure that development locations are accessible by a choice of means of travel.

SP3: Meeting Housing Needs: The local planning authorities will identify sufficient deliverable sites or broad locations for their respective plan period, against the requirement in the table below.

SP4: Providing for Employment and Retail: A strong, sustainable and diverse economy will be promoted across North Essex with the Councils pursuing a flexible approach to economic sectors showing growth potential across the Plan period.

SP5: Infrastructure and Connectivity: Requires the provision of infrastructure, services and facilities that are identified to serve the needs arising from new development.

SP6: Place Shaping Principles: Requires the highest standards of built and urban design and sets out the key principles that will apply to all new developments.

SPL1: Managing Growth: Identifies Weeley as a 'Rural Service Centre'.

SPL2: Settlement Development Boundaries: Seeks to direct new development to sites within settlement development boundaries. The boundary for Weeley extends to include the application site.

SPL3: Sustainable Design: Sets out the criteria against which the design of new development will be judged.

HP1: Improving Health and Wellbeing: Requires a Health Impact Assessment on all development sites that deliver 50 or more dwellings and financial contributions towards new or enhanced health facilities where new housing development would result in a shortfall or worsening of health provision.

HP2: Community Facilities: Requires development to support and enhance community facilities where appropriate, including by providing new facilities on site or contributing towards enhanced community facilities elsewhere to meet needs arising from the proposed development.

HP3: Green Infrastructure: Will be used as a way of adapting to, and mitigating the effects of, climate change, through the management and enhancement of existing spaces and habitats and the creation of new spaces and habitats, helping to provide shade during higher temperatures, flood mitigation and benefits to biodiversity, along with increased access.

HP5: Open Space, Sports and Recreation Facilities: Requires new developments to contribute to the district's provision of playing pitches and outdoor sports facilities and also requires larger residential developments to provide land as open space with financial contributions toward off-site provision required from smaller sites.

LP1: Housing Supply: Sets out the sources of new housing that will contribute towards meeting objectively assessed housing needs in the period up to 2033. The application site is one of the 'Strategic Allocations' for mixed-use development expected to deliver a large proportion of Tendring's new housing.

LP2: Housing Choice: Promotes a range of house size, type and tenure on large housing developments to reflect the projected needs of the housing market.

LP3: Housing Density: Policy requires the density of new housing development to reflect accessibility to local services, minimum floor space requirements, the need for a mix of housing, the character of surrounding development and on-site infrastructure requirements.

LP4: Housing Layout: Policy seeks to ensure large housing developments achieve a layout that, amongst other requirements, promotes health and wellbeing; minimises opportunities for crime and anti-social behaviour; ensures safe movement for large vehicles including emergency services and waste collection; and ensures sufficient off-street parking.

LP5: Affordable and Council Housing: Requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as Affordable Housing or Council Housing.

PP7: Employment Allocations: New Employment allocations are needed to provide job opportunities for residents in Tendring District and to support the growth aspirations for the towns. To achieve this objective, at least 20 hectares of new employment land is provided for through the allocation of sites, including the application site and defined on the Policies Map, to provide for B1 (Business and Office Use).

PP12: Improving Education and Skills: Requires the impacts of development on education provision to be addressed at a developer's costs, either on site and/or through financial contributions. The policy also requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

PPL1: Development and Flood Risk: Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

PPL3: The Rural Landscape: Requires developments to conserve, where possible, key features that contribute toward the local distinctiveness of the landscape and include suitable measures for landscape conservation and enhancement.

PPL4: Biodiversity and Geodiversity: Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

PPL5: Water Conservation, Drainage and Sewerage: Requires developments to incorporate sustainable drainage systems to manage surface water run-off and ensure that new development is able to deal with waste water and effluent.

PPL7: Archaeology: Where developments might affect archaeological remains, this policy requires proper surveys, investigation and recording to be undertaken.

PPL9: Listed Buildings: Says 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.

CP1: Sustainable Transport and Accessibility: Requires the transport implications of development to be considered and appropriately addressed.

CP2: Improving the Transport Network: States that proposals which would have any adverse transport impacts will not be granted planning permission unless these are able to be resolved and the development made acceptable by specific mitigation measures which are guaranteed to be implemented.

CP3: Improving the Telecommunications Network: Requires new development to be served by a superfast broadband (fibre optic) connection installed on an open access basis and that can be directly accessed from the nearest British Telecom exchange and threaded through resistant tubing to enable easy access for future repair, replacement or upgrading.

SAMU5: Development South of Thorpe Road, Weeley: Specifically allocates the application site for a mix of residential development, employment, a Primary School and public open space. The policy contains specific requirements in relation to housing numbers, educational facilities, healthcare provision, highways and open space.

Supplementary Guidance

Essex Design Guide for Mixed Use and Residential Areas (2005)

Essex County Council Car Parking Standards – Design and Good Practice (2009)

3 Relevant Planning History

14/00082/OUT and 14/01841/DETAIL for Erection of 20 dwellings with associated garages and single access point to Thorpe Road at Barleyfield Drive adjacent - Approved 20 June 2014 and 14 April 2015 respectively.

4 Consultations

Building Control and Access Officer

No comments at this stage.

Environmental Protection

They have looked at the noise assessment and have no comments to make at this stage.

Housing

There is a high demand for housing in Weeley and there are currently 165 households on the housing register seeking a 1 bedroom property, 111 seeking a 2 bedroom property, 99 seeking a 3 bedroom property and 32 seeking a 4 bedroom property.

It is noted on the application that the applicant has accounted for 30% of the properties on the development to be affordable housing (84 units). The department would prefer that another registered provider is sought to purchase the affordable homes on the site. In the event another provider cannot be identified, the Council will consider other delivery options.

Principal Tree and Landscape Officer

Most of the application site is in agricultural use with a small area of land close to Ash Farm comprising agricultural buildings. There are several established hedgerows containing trees on the land and one or two small groups of trees that are important landscape features.

In order to show the potential impact of the development proposal on the hedgerows on the boundary of the land the applicant has provided a tree report and survey. The report has been carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction - Recommendations.

As the application is in outline form it is not possible to assess the direct impact of the development on specific trees, hedgerows or other vegetation as the site layout has yet to be determined. Within the Design and Access Statement Figure 2 entitled Land Use Layout gives an indication of the shape of the development, but without sufficient detail to gauge the potential impact on existing trees and other vegetation. The tree report identifies the most important trees

and hedgerows and should be used to shape the development layout

Should planning permission be likely to be granted then details of soft landscaping should be secured as a reserved matter.

In terms of the impact of the development on the local landscape character the applicant has submitted a Landscape and Visual Appraisal to assess the likely effect on the character and visual qualities of the landscape.

The Landscape and Visual Impact Assessment has been carried out in accordance with Landscape Institute and Institute of Environmental Management and Assessment guidance contained in the Guidelines for Landscape and Visual Impact Assessment Third Edition 2013.

It addresses the nature of the impact and effect on the local landscape character and refers to the Tendring District Council Landscape Character Assessment (LCA) to describe the local landscape character types. This document accurately describes existing landscape character types and their relationship with one another.

It recognises that harm will be caused to the existing landscape character and sets out the steps that will need to be taken to mitigate the harm. In terms of the visual impact the LVIA sets out the potential benefits of creating a softer edge to the developed land juxtaposed with the adjacent countryside.

In terms of its assimilation into the local landscape the development has clear strengths and weaknesses. It has the potential to 'sit well' in the landscape as it is directly adjacent to existing developed land. Conversely it has the potential to have an adverse impact on the wider landscape as it is situated on sloping land falling from the Clacton and the Sokens Clay Plateau into the Holland Brook Clay Valley. The application site is clearly visible from the Public Right of Way network to the south.

The key to the successful integration of the development into the local landscape character will be to secure strong soft landscaping on the complete boundary of the application site and to ensure that new soft landscaping forms an integral part of the residential part of the development.

In essence the development will have a negative and detrimental impact on both the character and visual qualities of the local landscape character. The degree to which this is a factor is reasonably accurately described in the LVIA which also describes the potential benefits, which in landscape terms, is primarily the creation of a softer edge to the developed land.

Waste Management

No comments at this stage.

Anglian Water

The foul drainage from this development is in the catchment of Clacton Holland Haven Water Recycling Centre, which currently does not have capacity to treat the flows from the development site. Anglian Water are obligated to accept the foul flows from the

development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the planning authority grant planning permission.

Development will lead to an unacceptable risk of flooding downstream. A drainage strategy will need to be prepared in consultation with Anglian Water to determine mitigation measures and they request a condition requiring the drainage strategy covering the issue(s) to be agreed.

**Essex County Council
(ECC) Archaeology**

A Heritage Assessment submitted with the application recognises the potential of the development area to contain multi-period archaeological remains associated with the findings from the adjacent site at St Andrews Road and from other sources of evidence. The evidence for Palaeolithic remains within the area is strong and the potential for Pleistocene deposits with Palaeolithic potential to be present within the development site will need to be established through specialist consultation and, if required, fieldwork investigations. The Heritage assessment notes that no evidence of the Napoleonic barracks known to have been sited at Weeley has been found in the archaeological investigations in the surrounding area, however these were small scale and limited in their extent. Conditions securing a Programme of Archaeological and geo archaeological evaluation are recommended.

**ECC Economic Growth
and Development
(Education)**

Based upon the development of 280 homes, the proposal would produce the need for 15.2 Early Years and Childcare (EY&C), 84 primary places and 56 Secondary school places. 2.1Ha of land to be provided for the primary school and nursery should be delivered and transferred to ECC at no cost.

The likely financial contributions are:

Early Years & Childcare: £220,668.80; Primary Education: £1,069,656; Secondary Education: £1,083,320 and £196,224 for School Transport;

**ECC Flood and Water
Management**

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, they do not object to the granting of planning permission subject to the imposition of conditions.

ECC Highways

Their assessment of the application and Transport Assessment was undertaken with reference to the National Planning Policy Framework and in particular the following aspects were considered: access and safety; capacity; the opportunities for sustainable transport; and highway mitigation measures.

The Transport Assessment accompanying the planning application has been considered in detail and the Highway Authority is satisfied that, at peak times, the number of trips generated by the proposal would not have a severe impact and could be accommodated safely and efficiently on the local highway network, subject to a number of requirements which could be secured by way of planning conditions and obligations, namely:

- Provision of a Construction Traffic Management Plan;
- Securing of a diversion of the existing definitive right of way;
- Widening of the Barleyfields carriageway;
- Right-turn lane into Barleyfields to be provided;
- A pedestrian refuge island to be provided to the west of Barleyfields access road;
- The existing footway along the site frontage to be widened;
- Adjustments to carriageway width to the east of Crow Lane and removal of the layby;
- Provision of a right-turn lane into Crow Lane approaching from the east;
- Homestead access to be constructed with appropriate kerb radii;
- Right-turn lane into Homestead on approach from the east;
- Provision of a financial contribution towards the proposed improvements at the A133/B1033/ services and Frating roundabouts as identified in the Tending Local Plan Highways and Transportation Modelling work;
- The provision of two new bus stops located to the east of Barleyfield's access on both sides of Thorpe Road;
- Provision of new gateway traffic calming features to be provided on the approaches to Weeley in both directions on the B1033 to enhance the existing 30mph speed limits; and
- Provision and implementation of a Residential Travel Information Pack per dwelling.

Essex Police

The published documents have been studied and, unfortunately, do not provide sufficient detail to allow an informed decision to be made as to whether the appropriate consideration of Sections 58 & 69 of the National Planning Policy Framework has been achieved.

Essex Police, in supporting the ethos of Sections 58 & 69 of the NPPF, provide a free, impartial advice service to any applicant who request their service. The intended outcome of the service is to promote Crime Prevention Through Environmental Design, a key enabler being encouraging and supporting applicants to achieve certification to an appropriate level under the nationally acknowledged and police recommended Secured by Design award system.

Essex Wildlife Trust

Weeleyhall Wood nature is already experiencing an increase in negative impacts following the completion and occupation of a new housing estate in the village. This is a fairly wet woodland which becomes very muddy in the winter. There has been a very noticeable widening of the trampled area of rides and footpaths, plus increasing creation of informal detours around particularly wet areas. This is inevitably damaging the valuable ground flora. Suitable mitigation measures to offset the impacts of even more visitors related to the proposed building of 280 additional houses should be focused on the provision of high-quality surfacing for the main rides, a section of which needs to be wide enough to allow access for their vehicle, to enable them to carry out essential management works. Additionally, there are a couple of very wet sections of footpath which would benefit from having boardwalks installed to protect rare plants, prevent informal detours and improve access for visitors. In terms of improved interpretation on site, a lockable, glazed noticeboard

positioned by the site entrance would be a valuable addition to our current signage and would allow them to keep visitors informed and up to date with site management works, notable wildlife sightings and events such as guided walks..

Natural England

Based on the information provided in support of the application, and with the inclusion of conditions, it is Natural England's view that the proposal is unlikely to lead to adverse effects on Hamford Water Special Protection Area (SPA), Ramsar site and Site of Special Scientific Interest (SSSI), the Essex Estuaries Special Area of Conservation (SAC), the Colne Estuary SPA, Ramsar site and SSSI, the Stour and Orwell Estuaries SPA, Ramsar site and SSSI or Weeleyhall Wood SSSI.

They therefore have no objections, subject to the inclusion of planning conditions to secure the mitigation measures covering High-quality, informal, semi-natural areas; Circular dog walking routes of >2.7 km² and/or with links to surrounding public rights of way (PRoW); Dedicated 'dogs-off-lead' areas; Signage/leaflets to householders to promote these areas for recreation; Dog waste bins etc; Developer contributions towards the implementation of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) in respect of the Colne Estuary; and a proportional financial contribution from the developer towards the costs of the recreational disturbance mitigation works for Weeleyhall Wood SSSI, to be agreed with Natural England and the Essex Wildlife Trust.

NHS England

The proposed development is likely to have an impact on the services of 2 GP practices operating within the vicinity of the application site. The 2 GP practices do not have capacity for the additional growth resulting from this development. The proposed development would therefore likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within the area and specifically within the health catchment of the development. NHS North East Essex CCG would therefore expect these impacts to be fully assessed and mitigated.

The development would give rise to a need for improvements to capacity, in line with emerging CCG Estates Strategy, by way of extension, reconfiguration, refurbishment, improved Information Technology (IT) infrastructure, or potential relocation from the existing practices, a proportion of the cost of which would need to be met by the developer. Most likely in this instance, depending on specific timescales, a contribution to the relocation costs for Thorpe Surgery (including its branch surgery Kirby Cross).

NHS England calculates the level of contribution required, in this instance to be £97,152. Payment should be made before the development commences.

Network Rail

Due to the potential impact that the proposed development would have on the usage, safety and operation of Church Lane (COC) FPW footpath crossing, Network Rail believes that the closure of the crossing is necessary to make the development acceptable. (Please note that this position was detailed within Network Rail's consultation response (dated 2 August 2017) relating to Policy SAMU5 of the

Tendring District Council Publication Draft Local Plan.) It is positive that the Applicant recognises the potential impact that the proposed development would have on safety at Church Lane (COC) FPW footpath crossing and that the closure of the crossing, through the construction of a new pedestrian/cycle bridge over the railway line, will be required. Network Rail is supportive of the proposed closure of the crossing and the construction of a new bridge. It is recommended that the existing footpath is diverted over the footbridge through the Town and Country Planning Act 1990.

In summary, Policy SAMU5 is welcomed by Network Rail. However, the trigger figure for construction of a bridge should be reviewed to take into account the current application and its impact on Church Lane (COC) FPW footpath crossing. Network Rail recommends the bridge should be constructed on completion of the 25th Dwelling. This figure is based on current data and recent fatality at the Level Crossing. The Bridge Design has been accepted by Network Rail's Asset Protection Team (ASPRO) and therefore there is no objection to the design. Ownership of the bridge will be handed to Network Rail once completed and a commuted sum will be provided by the developer to cover maintenance.

5 Representations

- 5.1 Thorpe Le Soken Parish Council object on the grounds of unwanted expansion into the countryside, impact of local listed sites of interest and inadequate highway access.
- 5.2 Weeley Parish Council objects strongly to this application, they state: the traffic levels are already at saturation levels in this area and it is difficult to see how the additional levels of road traffic could be accommodated, particularly in holiday season; the public transport infrastructure is poor; this site is susceptible to flooding; the proposed pedestrian footbridge is highly unattractive and unnecessary and does not have access for pushchairs or wheelchairs; and the five year housing supply numbers have already been achieved without this large and unpopular development.
- 5.3 **39** letters of objection and one letter of support were received by the Council from local residents. The letters of objection raise the following concerns:

Principle of Development

- Concern over consideration of the application before the emerging Local Plan is subjected to public examination
- Concern 17/02162/OUT has not been properly and adequately presented to the public
- The proposal does not accord to the written document Local Plan Publication
- Concern development is for profit only, not the local community
- Weeley has already provided its quota for new houses
- More suitable location at Horsley Cross
- Tendring is more suited to the retired, little to stimulate children and teenagers
- This development would be hazardous to, contravene and conflict with several Local Plan criteria
- TDC can demonstrate 6.2 years supply of housing without this development

Access (Highway, public transport, cycling and walking)

- Already excessive traffic through village and on keys roads – B1033, B1441
- Proposed one road access into such a large development is dangerous

- Volume of traffic being a reason cited for closure of Christmas Wonderland
- The proposed development entry from B1033 would add further traffic
- Poor rail service with no parking facilities at station
- Poor bus service
- Poor quality roads
- Loss of a well-used foot path leading up to Barracks Hill
- One road, B1033, is inadequate to serve the proposed development
- The proposed footbridge is inaccessible to those with pushchairs or wheelchairs **and would be unsightly.**

Landscape and Ecology

- Concern this development would irreparably damage village landscape
- Negative impact on local wildlife and already threatened species
- Loss of good agricultural land
- Threat to ancient woodland
- Loss of green space

Living Conditions/Residential Amenities

- Residents will be negatively impacted by increase in traffic fumes
- Loss of views

Community Infrastructure

- Lack of secondary school provision
- Little to no real employment opportunities in the local area
- Concern that the local infrastructure such as GP's, schools, roads, sewage and electric etc struggles to cope already, without the extra load from the proposed development
- GP's surgeries already full to capacity
- Train station is not fully accessible to wheelchair users
- No additional infrastructure proposed
- Local emergency services cannot cope

Heritage/Setting of Listed Buildings

- Loss of historic village heritage

Flooding

- The proposed site is regularly waterlogged in autumn/winter
- Poor sewage systems
- Proposed site liable to flooding

5.4 The letter of support states:

- The support of the application is assuming that the bridge over the railway will be constructed. A bridge over the railway can only be beneficial to walkers as it would provide a safe crossing and prevent future closure of this rail crossing, by Network Rail. They can only assume from the plan that the footpath would remain on the current route as there does not appear to be any mention of a diversion and would also expect this PROW to remain open and usable during construction.

6 Assessment

Site Context

- 6.1 The application site comprises 17.90 hectares of agricultural land that is situated to the south of the B1033 Thorpe Road, Weeley. The northern boundary of the site is shared with a range of land uses, including Ash Farmhouse, a grade II listed building with its farm yard that is in commercial use forming part of the application site, the Tendring District Council offices, the recently completed residential estate of 20no dwellings known as Barleyfield Drive and more established dwellings, including 1-6 Thorpe Road and a bungalow known as Emma-Dawn.
- 6.2 To the east of the site is the Tendring Hundred Riding Club showground, a pair of ponds and open farmland beyond, to the south is the railway line, with houses fronting Second Avenue and The Street beyond the western boundary. Also halfway along the western boundary is a new development under construction for 14no houses, garages, access, public open space and landscaping on land at the end of St Andrews Road, pursuant to 15/01750/FUL.
- 6.3 The site is relatively flat semi-improved grassland, but does slope gently towards the south and surrounding it are hedgerows with standard trees, some previously managed as coppice and pollards. To the south of the site is small copse/woodland (through which a Public Right of Way passes down to the railway line) with evidence of previous coppicing, within the site are occasional aged trees, some with veteran associations.
- 6.4 Weeley benefits from a range of existing local services which include a primary school, a holiday park, the Black Boy pub, a bakery and a convenience shop and post office. Furthermore Weeley Heath is located nearby to the south with additional services and facilities. In recognition of these services and other factors, Weeley is designated as a Rural Service Centre in the draft Local Plan.
- 6.5 The application site is served by several bus services that link to nearby settlements **including 97 and 105/107 to Colchester, 2/76/X76/100 to Clacton, as well as schools services: 87C to Brightlingsea, 115 Thorpe-le-Soken, and 702 to Frinton**, with the village also having a railway station that provides a service from Clacton/Walton to Colchester and beyond to London.

Proposal

- 6.6 As set out at the head of this report, outline planning permission is sought for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.
- 6.7 This is an application for Outline Planning permission, with all matters reserved with the exception of access. The applicant has provided details of how they propose to access the site off Thorpe Road, via Barley Field Drive with the creation of a footway/cycleway along the existing Ash Farm entrance which itself would be retained for the residential and agricultural use of Ash Farm. All other matters (Appearance; Landscaping; Layout; and Scale) are reserved and it can therefore be said that the application seeks to establish the principle of residential development of the site.
- 6.8 The application is supported by a wide suite of technical drawings and documents, these include:

- Site Location Plan;
- Existing Site Plan;
- Land Use Audit/Illustrative Master Plan;
- Proposed Access Arrangement Plan;
- Additional Pedestrian/Cycle Access Plan;
- Footpath Diversion Plan;
- Proposed Footbridge, General Arrangement Plan;
- Topographical Survey Plans;
- Acoustic Assessment;
- Air Quality Assessment;
- Barn Owl Mitigation report;
- Bat Activity Survey;
- Breeding Bird Survey;
- Design and Access Statement;
- Ecological Impact Assessment;
- Flood Risk Assessment;
- Heritage Assessment;
- Junctions report for right turn lane;
- Landscape and Visual Impact Assessment;
- Phase 1 Desk Study and Risk Assessment
- Planning Statement;
- Preliminary Ecological Appraisal;
- Reptile Survey and Outline Mitigation Strategy;
- Road Safety Audit Stage 1;
- School Land compliance study and Knotweed Survey;
- Statement of Community Involvement;
- Transport Assessment;
- Tree Constraints Assessment; and
- Underground utilities search report.

- 6.9 Additional information has also been submitted in the form of emails and letters dealing with points raised within consultation responses, covering ecological mitigation in respect of international wildlife sites and Weeleyhall Woods SSSI.
- 6.10 With the exception of the formation of the access into the site, details of the appearance, landscaping, layout and scale are all reserved matters which means that approval is not sought for these at this stage and details are therefore not currently required. If the outline application were to be granted the applicant, or any successors in title, would need to submit reserved matters applications to the Local Planning Authority, in addition to discharging planning conditions before development could commence.
- 6.11 The application proposes one main vehicular access point into the site through Barleyfield Drive. In order to facilitate this, a dedicated right turn lane, with carriageway realignment within the public highway would be carried out as shown on the proposed access arrangement plans. It is also proposed to install a 3.5m wide footway/cycleway along the existing access that serves the dwelling and farm buildings at Ash Farm.
- 6.12 The submitted illustrative Masterplan shows that the principal site access from Barleyfield Drive would likely run in a southerly direction through the heart of the site, thereby creating a central spine road off of which secondary vehicular access routes, including to the employment area and school land would be created. The illustrative Masterplan also identifies the existing public footpaths that pass through the site, as well as new potential pedestrian and cycle routes. The exact location of the proposed new routes through the site would be refined through the Reserved Matters process.

- 6.13 Whilst a reserved matter, the indicative Masterplan and Land Use Parameter Plan identify the potential layout of the site, which is intended to give some certainty to the general location of development and ultimately be used to inform the Reserved Matters stage/s. This would be a predominantly housing-led scheme for up to 280 units and whilst the precise mix of dwelling types is unknown, the applicants state that they intend to provide a broad range of residential accommodation and would include both affordable and market housing, likely to be 2-5 bedrooms.
- 6.14 The design of the housing would likely follow the design cues from the adjacent Barleyfield Drive development, which was recently completed by the applicant, and is of a traditional design with a high level of detailing such as bargeboards, finials, string courses, stone cills, segmented brick lintels and oversized eaves. The proposed residential buildings would likely be a mixture of 1, 1½ and 2 storey homes and would be of a mixture of detached, semi-detached and terraced housing; The roofscape would include a mixture of half dormers and gables that present to the side and/or the front.
- 6.15 The site and policy context gives rise to three main character areas. As the site abuts the countryside, an 'edge' typology/character area would be used to help transition from open countryside to built form. This would likely have a combination of large detached houses as well as some small cottages. The main body of the site would have a more suburban feel based around a broad avenue, lined with street trees. The third of the main character areas would be around the community hub focused on the school, employment land and the existing Council offices (which are outside of the application site). These buildings would have a civic and community focus to create a communal and public space in and around this area.
- 6.16 The main planning considerations are:
- Principle of Development;
 - Transport & Access;
 - Reserved Matters - Appearance, Landscaping, Layout and Scale;
 - Landscape & Visual Impact;
 - Ecology and Nature Conservation;
 - Archaeology and Cultural Heritage;
 - Hydrology, Flood Risk & Drainage;
 - Ground Conditions and Contamination;
 - Air quality and Noise;
 - Living Conditions; and
 - Planning Obligations.

Principle of Development

- 6.17 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a significant material consideration in this regard.
- 6.18 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

- 6.19 As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.
- 6.20 With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices.
- 6.21 The application site is not allocated for development in the adopted Local Plan and it lies outside (albeit adjacent to) the 'settlement development boundary' for Weeley. In the emerging Local Plan, the site is however specifically allocated through Policy SAMU5 for a mix of residential development, employment, a Primary School and public open space. The policy contains specific requirements in relation to housing numbers, educational facilities, healthcare provision, highways and open space.
- 6.22 Draft Policy SAMU5 states: *"Land south of Thorpe Road, Weeley, shown on the Map SAMU5, is allocated for mixed use development as follows:*
- a. *at least 280 new homes of a mixed size and type to include affordable housing as per the Council's requirements;*
 - b. *1 hectare of land for employment (potentially utilising buildings at Ash Farm);*
 - c. *1 hectare of public open space;*
 - d. *2.1 hectares of land for a new primary school with co-located 56 places commensurate early years and childcare facility (D1 use) as required by the Local Education Authority through Section 106 Planning Obligations;*
- Proposals must accord with the following:*
- e. *the principal point of vehicular access will be off Thorpe Road;*
 - f. *capacity and/or safety enhancements to the local highway network where necessary;*
 - g. *where necessary, enhancements to public transport, cycle and pedestrian infrastructure;*
 - h. *provision of a pedestrian/cycle bridge over the railway line, as a replacement for the existing level crossing prior to the occupation of the one-hundredth dwelling;*
 - i. *the design and layout of the development must have regard to the surrounding landscape, seeking to minimise visual impacts through the inclusion of mitigation measures;*
 - j. *delivery of opportunities for the protection and enhancement of the historic environment including the built and archaeological environment;*

- k. *early engagement with Anglian Water to secure upgrades to both treatment infrastructure and network and to formulate a water and drainage strategy to serve the new development;*
- l. *a financial contribution to early years and childcare, primary and secondary education provision, as required by the Local Education Authority through Section 106 Planning Obligations;*
- m. *financial contributions towards other community facilities such as health provision as required by the NHS/CCG either through the Community Infrastructure Levy or Section 106 Planning Obligations.”*

6.23 The application is for 280 dwellings with 1 hectare proposed for employment and public open space each, in addition to 2.1 hectares identified for a new primary school, in accordance with the Council’s requirements. The principal point of vehicular access is shown to be off Thorpe Road; and enhancements to the local highway network and public transport, cycle and pedestrian infrastructure including the provision of a pedestrian/cycle bridge over the railway line, as a replacement for the existing level crossing prior to the occupation, are also proposed, and will be discussed in greater detail below, along with the other requirements of the policy.

6.24 The allocation of this site for residential and mixed use development in the Publication Draft of the emerging Local Plan and the requirements of Policy SAMU5 attracted 26 objections from residents and other stakeholders. The objection comments raised are summarised below, these along with the local objections received in response to this planning application specifically are addressed throughout this report:

- Policy SAMU5 and the formal site allocation on the Policies Map should be deleted; and amendments made to the proposed spatial distribution of housing growth and employment development across the district;
- The development of the site for 280 dwellings would be oversized and spoil the village;
- Would not want to see the public footpath (no5) and the proposed railway footbridge be upgraded to a Bridleway due to health and safety concerns and potential conflicts between users and farm machinery;
- The village would have building works for years to come which would lead to residents' lives being disrupted with noise, traffic and unsuitable vehicles on small roads, including HGVs;
- Inadequate social and highway infrastructure to serve the development;
- The land is full of wildlife, including barn owls, bats, grass snakes, hedgehogs and herons;
- There are more suitable areas in Weeley for this development which would not blight so many of the residents;
- Plans for such massive over-development would also be contrary to the requirements of Section 7 of the NPPF as in no way would it be 'contributing to protecting and enhancing Weeley's natural, built and historic environment'.

6.25 In applying the guidance within paragraph 48 of the NPPF, the Local Plan has reached a **relatively** advanced stage of the plan-making process; the objections to Policy SAMU5 are noted, although Officers are of the view that the proposal is in line with the policies in the NPPF to boost the supply of housing and achieve a balance between economic, social and environmental factors. On this assessment, Policy SAMU5 and the allocation of the site for mixed-use development can carry a reasonable level of weight in the determination of this planning application.

6.26 Furthermore, the Council’s ability to demonstrate an ongoing five year supply of deliverable housing sites, in line with paragraph 73 of the NPPF relies on some of the sites allocated

for development in the emerging Local Plan obtaining outline planning permission in the short-term, in order for them to progress to the detailed planning stages and to start delivering new homes from the middle part of the plan period. In fact, the Council's evidence to demonstrate a five year supply relies on the housing trajectory contained within its latest Strategic Housing Land Availability Assessment' (April 2018) (SHLAA) which anticipates the grant of outline planning permission in 2018/19, reserved matters approval in 2019/20, discharge of conditions and commencement in 2020/21 with first completions in 2021/22. The estimated building rate is 40 dwelling completions per annum.

- 6.27 The SHLAA recognises that this proposal is the subject of a fair number of objections both to the allocation in the local plan and to the planning application, but that all issues raised in objections are resolvable.
- 6.28 **As highlighted above within the executive summary, the proposal is referred back to Planning Committee, following its decision to defer the application on 21 August 2018 until the outcome of the Part 2 examination of the Council's emerging Local Plan. The applicant has sought legal advice and has requested that the Council determine the application now, on the grounds that to defer for an indeterminate period of time would amount to unreasonable behaviour, which would potentially have significant financial implications for the public purse though the costs regime of the appeal process.**
- 6.29 **The applicant's Solicitor highlights that Parliament, through the Town & Country Planning Act 1990 has given the Council the legal right to determine planning applications. An applicant for planning permission can therefore expect their application to be determined which must be approved or rejected, and if the latter, good planning reasons given ie. the Council must act, and pursuant to NPPF paragraph 47 the decision should be made as quickly as possible.**
- 6.30 **Paragraphs 2.12 and 2.13 of this report above, stipulate that Paragraph 49 of the NPPF states that in context of the Framework, and in particular the presumption in favour of sustainable development, arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:**
- a) **the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and**
 - b) **the emerging plan is at an advanced stage, but is not yet formally part of the development plan for the area.**

In addition, the NPPF in paragraph 50 states that refusal of planning permission on grounds of prematurity will seldom be justified even where a draft plan has yet to be submitted for examination. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.

- 6.31 **Whilst it is acknowledged that the proposal the subject of this outline is for a major form of development which would impact upon the character of Weeley, nonetheless it would constitute part of the settlement's evolution, as is the case with the majority of the larger settlements within the district where new development is planned. Consequently, Officers consider that by permitting the construction of 280 dwellings (where approximately 11,000 dwellings are required to be built between 2013 and 2033 at 550 dwellings per annum), the proposal would not be so substantial that to**

grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to the emerging plan. This is particularly due to the fact that the site is allocated within the emerging Local Plan, which is a material consideration that should be given some weight in itself in the determination of this application.

- 6.32 Therefore, pursuant to NPPF paragraph 50, refusal of planning permission on grounds of prematurity will seldom be justified and it is quite likely that the Council would be deemed to have acted unreasonably at appeal should either the application fail to be determined, or is refused on spurious grounds.
- 6.33 In addition, the applicant's Solicitor highlights that a Local Planning Authority has a legal duty to apply consistency when determining similar planning applications (*North Wiltshire District Council v Secretary of State for the Environment and others [1992] 3plr 113*). The Council has approved or resolved to approve planning permission on the following sites, some of which are larger than this one, which are also included within the emerging Local Plan: Rouses Farm, Clacton (17/01229/OUT) for 950 dwellings; Brook Park West, Clacton (16/01250/OUT) for 200 dwellings; Robinson Road, Brightlingsea (17/01318/FUL) for 115 dwellings; and Low Road, Dovercourt application (17/02168/OUT) for 300 dwellings.
- 6.34 Consequently, having considered the application site's status within the emerging Local Plan, the imperative to deliver new homes and to maintain a five year supply of deliverable housing sites, as well as the need to make planning decisions in a consistent manner, Officers consider that the principle of a major residential and mixed-use development on the site is acceptable, subject to its consideration against other relevant policies, including draft Policy SAMU5.

Highways, Transport & Access

- 6.35 Where concerning the promotion of sustainable transport, the NPPF in para. 103 states that the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Para. 111 of the NPPF stipulates that all development that could generate significant amounts of vehicle movements should be supported by a Transport Assessment, this is to ensure, amongst other things, that suitable access to the site can be achieved and that opportunities for sustainable transport modes are explored to reduce the need for major transport infrastructure. Development should only be prevented where the residual cumulative impacts are likely to be severe.
- 6.36 On this subject, the PPG goes into more detail into the overarching principles on Transport Assessments, with Requirements e.-h. of Policy SAMU5 requiring the principal point of vehicular access into the site off Thorpe Road; with capacity and/or safety enhancements to the local highway network and to public transport, cycle and pedestrian infrastructure, where necessary; as well as the provision of a pedestrian/cycle bridge over the railway line, as a replacement for the existing level crossing.
- 6.37 A full audit of the highway network surrounding the application site has been undertaken by the applicant, with the proposal fulfilling the above requirements. ECC Highways have assessed the highway and transportation impact of the proposal, including full assessment of the Transport Assessment, examination of all documents submitted, and undertaken a site visit and do not wish to raise an objection subject to the imposition of reasonable planning conditions and obligations, the subject of which, as highlighted within the summary of their response are included at the head of this report.
- 6.38 Therefore it is considered that the proposal, during either the construction or operational phases would not have a detrimental effect upon the highway network or the general

accessibility of the surrounding area with sustainable mitigation measures proposed and to be secured by the appropriate means.

Reserved Matters - Appearance, Landscaping, Layout and Scale

- 6.39 Paragraph 124 of the NPPF states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.
- 6.40 The current application is an outline application with all matters reserved except access. The applicant has submitted an indicative masterplan drawing, setting out their vision for developing the site, which along with the Design and Access Statement demonstrate one way in which the site could be developed. As referred to above, detailed access drawings have also been submitted which identify the proposed main vehicular and pedestrian/cycle access points onto Thorpe Road.
- 6.41 The applicant states that it is intended that the proposal would take cues from the adjacent Barleyfield Drive and the Essex Design Guide, and Officers consider that the proposal has the potential to respond positively to local character, provide buildings that exhibit individual architectural quality and a mix of densities and house-types with well-defined public and private spaces. The public realm through additional landscaping, street furniture and other distinctive features would assist in creating a sense of place, and provide streets and spaces that are overlooked and active, promoting natural surveillance and inclusive access, as well as including parking facilities that are well integrated as part of the overall design.
- 6.42 Although appearance, landscaping, layout and scale are reserved matters, the general principle of this level of development on the site is considered acceptable; and is in keeping with both the site's location on the edge of the village and along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features.
- 6.43 Due to the scale of the development proposed, and in order to minimise disturbance to existing residents, as well as ensuring that the mix of housing meets the requirements of the Council's Strategic Market Housing Assessment, it is recommended that by way of the imposition of a condition, a Layout and phasing plan/programme be submitted for approval prior to the submission of the first Reserved Matters application. This should also include details of market and affordable housing provision; and a phasing plan.

Landscape & Visual Impact

- 6.44 NPPF para. 170 stipulates that the planning system should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes. The Planning Practice Guidance (PPG) states where appropriate, Landscape Character Assessments should be prepared to complement Natural England's National Character Area profiles. Landscape Character Assessment is a tool to help understand the character and local distinctiveness of the landscape and identify the features that give it a sense of place.
- 6.45 In response to this, the applicant has submitted a Landscape and Visual Impact Assessment (LVIA) which highlights that the application site is situated within two character areas, 8B, Clacton and The Sokens Clay Plateau and 6D Holland Valley System. In this respect the development of the land has the potential to cause harm to a wider landscape area, although the site is not covered by any specific landscape designation and the Tree and Landscape Officer acknowledges that the information submitted in support of the

application provides a genuine and accurate description of the landscape and visual effects.

- 6.46 The application site comprises relatively flat (albeit sloping towards to the railway line on the southern end) agricultural land with landscape features within the site and to its boundaries which include mature and established hedgerows and small tree groups. As it lies on the eastern edge of Weeley, with existing development situated along the northern and western boundary, the locality is therefore already partly residential in character.
- 6.47 Quite clearly, the proposed development would see a permanent change of land use (and therefore character) from farmland to residential/mixed use, and would inevitably result in a permanent significant effect upon the landscape. However, whilst only in outline, the planning application demonstrates that the scheme could be designed to minimise landscape and visual effects, through the creation of a positively designed settlement edge to Weeley.
- 6.48 As part of the landscape design it is proposed that existing trees and hedgerows on the site would be retained and enhanced by new native planting and a substantial landscape buffer to the southern boundary created which would incorporate the public open space and land to be designated for ecological purposes/the translocation of Slow Worms from elsewhere on the site.
- 6.49 The Tree and Landscape Officer states that the key to the successful integration of the development into the local landscape character would be to secure strong soft landscaping on the complete boundary of the application site and to ensure that new soft landscaping forms an integral part of the residential part of the development.
- 6.50 As the application is in outline form it is not possible to assess the direct impact of the development on specific trees, hedgerows or other vegetation as the site layout has yet to be determined. Within the Design and Access Statement Figure 2 entitled Land Use Layout gives an indication of the shape of the development, but without sufficient detail to gauge the potential impact on existing trees and other vegetation. The tree report identifies the most important trees and hedgerows and should be used to shape the development layout, which has been carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction - Recommendations.
- 6.51 In conclusion on this matter, and pursuant to requirement i. of Policy SAMU5, it is considered that the proposal would not give rise to significant adverse effects upon the surrounding landscape, subject to mitigation measures which could be secured through the submission of reserved matters and the imposition of appropriate conditions.

Ecology and Nature Conservation

- 6.52 One aim of sustainable development should be to conserve and enhance the habitats and species on site. This is reflected within NPPF paragraph 170 which recognises that the planning system should contribute to and enhance the natural and local environment by, amongst other things: protecting and enhancing sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); recognising the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland; and minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 6.53 The PPG highlights that section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of

this duty is to embed consideration of biodiversity as an integral part of decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by government in its Biodiversity 2020 strategy.

- 6.54 With respect to Green infrastructure, the PPG defines this as a network of multifunctional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities. Green infrastructure is not simply an alternative description for conventional open space. As a network it includes parks, open spaces, playing fields, woodlands, but also street trees, allotments and private gardens. It can also include streams, canals and other water bodies and features such as green roofs and walls.
- 6.55 The Preliminary Ecological Appraisal (PEA) submitted with the application recommended that Barn Owl, Bat, Bird and Reptile surveys be carried out, consequently the following reports have been submitted: Barn Owl Mitigation report; Bat Activity Survey; Breeding Bird Survey; and Reptile Survey and Outline Mitigation Strategy, with an Ecological Impact Assessment (EclA), the aim of which is to set out mitigation measures required to ensure compliance with nature conservation legislation and to address any potentially significant ecological effects.
- 6.56 Building 4 (a hay barn) located on Ash farm has confirmed breeding Barn Owls in a Barn Owl box located within this building, with the presence of 3 Barn Owl chicks at the time that the survey was carried out.
- 6.57 With regard to Bats, the majority of the foraging activity was noted in the southern arable field, along the external boundary hedgerows, the hedgerow east to west across the centre of the site and in the small areas of woodland to the south of the site adjacent the railway line. These features were confirmed to be mainly in use by common species of bat, including Common Pipistrelle and Soprano Pipistrelle. Two passes of a Nathusius' Pipistrelle and Leisler's bat were recorded during the first period of static monitoring close to the railway line.
- 6.58 The site was found to support 24 species of bird, 17 of which are thought to be using the site for breeding. Most of the species encountered are common and widespread in Essex and the UK in general. The majority of the species using the site are not listed as birds of conservation concern, (BoCC), or are UK Biodiversity Action Plan (UKBAP) or Local Biodiversity Action Plan (LBAP) or listed as Species of Principal Importance under NERC s41 with the exception of: Skylark (Red/UKBAP/LBAP/NERC), Tree Sparrow, and Yellowhammer, (red status/UK BAP/NERC). Mallard, Dunnock and Common Gull are listed as Amber, of which only Tree Sparrow, Skylark, Dunnock and Yellowhammer are considered to be breeding on site. Key habitats used by breeding birds included the hedgerows, scrub and trees present along the boundaries of the site, which are considered important on a site scale.
- 6.59 The grassland on site was confirmed suitable for reptiles during the reptile survey with a good population of Slow Worm recorded across the site, and which would need to be translocated to a dedicated part of the site where they can reside undisturbed i.e through the fencing off of an area separate from the Public Open Space. Detailed mitigation measures and recommendations for the enhancement of biodiversity are included within the EclA and which should be secured by way of planning condition/s. These measures would ensure the effective protection of protected species and other wildlife, including hedgehogs.
- 6.60 As has been highlighted above, based on the information provided in support of the application, and with the inclusion of conditions, it is Natural England's view that the proposal would unlikely lead to adverse effects on Hamford Water Special Protection Area

(SPA), Ramsar site and Site of Special Scientific Interest (SSSI), the Essex Estuaries Special Area of Conservation (SAC), the Colne Estuary SPA, Ramsar site and SSSI, the Stour and Orwell Estuaries SPA, Ramsar site and SSSI or Weeleyhall Wood SSSI. With regard to the latter Essex Wildlife Trust have expressed concerns with regard to the impacts that an increase in visitors is already having upon Weeleyhall Wood and have costed work to improve rides and install boardwalks at around £55,000. Clearly the proposal would likely add to the pressures and therefore it is considered appropriate to seek a proportionate contribution, especially as the use of Weeleyhall Wood would in part mitigate the use of the international wildlife sites by future residents.

- 6.61 In addition, it is recommended that a planning condition be imposed which seeks to secure mitigation measures to provide high-quality, informal, semi-natural areas within the site; Circular dog walking routes of >2.7 km² and/or with links to surrounding public rights of way (PRoW); and Dedicated 'dogs-off-lead' areas; in addition to signage/leaflets to householders to promote these areas for recreation; Dog waste bins etc.
- 6.62 Therefore, in conclusion on this issue, it is considered that the proposal would not give rise to significant adverse effects upon ecology and nature conservation subject to the mitigation measures proposed which could be secured through the submission of reserved matters and the imposition of appropriate conditions.

Archaeology and Cultural Heritage

- 6.63 Paragraph 184 of the NPPF states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. In determining planning applications, NPPF para. 189 states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Furthermore, para. 192 of the NPPF states that in determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.64 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 stipulates that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 6.65 There is one listed building in close proximity to the application site, which is Ash Farmhouse, a grade II listed building which is located immediately beyond the north western corner of the site. The listing description for this is: *Grade II listed 15th/16th century house with later alterations and additions. Timber-framed and plastered. Red plain-tiled roofs. Two red brick chimney stacks to left range, right stack to central range. 2 storeys. Left crosswing, jettied central range and right crosswing, this with 2 brackets. Single storey lean-to extension to left return.*

- 6.66 There are a number of farm buildings to the south of the farmhouse, these were built during the Victorian period and consisted of an enclosed rectangular farmyard and therefore can be deemed to be curtilage listed. This layout survived until 1923, but from 1958, there was very considerable change involving the construction of very large modern barns to the south, these would likely be demolished prior to building out the commercial element of the scheme (subject to the relevant consents), with the curtilage listed buildings converted to offices which would require an application for listed building consent.
- 6.67 The submitted heritage statement highlights that the curtilage listed buildings have undergone some change, and do not have as much 'heritage value' as the listed farmhouse. Nevertheless, the proposed changes to the farm and its farmyard should take into account the curtilage listing, and should treat sympathetically those structures within the curtilage listing. Officers concur with this view, and the fact that the curtilage listed buildings act as a 'buffer' to the farmhouse it is considered that these designated heritage assets and their settings would not be harmed by the proposal.
- 6.68 In its glossary, the NPPF highlights that *"There will be archaeological interest in a heritage asset if it holds, or potentially may hold, evidence of past human activity worthy of expert investigation at some point."*
- 6.69 As highlighted by ECC Archaeology, the heritage statement recognises the potential of the development area to contain multi-period archaeological remains associated with the findings from the adjacent site at St Andrews Road and from other sources of evidence. The evidence for Palaeolithic remains within the area is strong and the potential for Pleistocene deposits with Palaeolithic potential to be present within the development site will need to be established through specialist consultation and, if required, fieldwork investigations. The assessment notes that no evidence of the Napoleonic barracks known to have been sited at Weeley has been found in the archaeological investigations in the surrounding area, however these were small scale and limited in their extent. Conditions securing a Programme of Archaeological and geo archaeological evaluation are therefore recommended.
- 6.70 Subject to the above measures, it is considered that the proposal would not give rise to detrimental effects upon Cultural Heritage or Archaeology; and Requirement j. of Policy SAMU5 would be met i.e. the delivery of opportunities for the protection and enhancement of the historic environment including the built and archaeological environment.

Hydrology, Flood Risk & Drainage

- 6.71 Part 14 of the NPPF sets out the Government's stance on climate change, flooding and coastal change, recognising that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change. Inappropriate development in areas at risk of flooding should be avoided.
- 6.72 The site is currently greenfield land and forms part of the natural catchment of Weeley Brook which is located for much of its part, to the south of the railway line. A ditch runs from west to east approximately through the centre of the site, from here ultimately discharges to Holland Brook, close to where it joins Weeley Brook, to the east of the site. There are ditches running southwards, either side of the track that aligns with the railway crossing point. The ditches continue to the south of the railway and it has been proven that a filter drain drains from the site into the railway land. A pipe can be seen discharging to the continuation of the ditch to the south of the railway. The site is located within Flood Zone 1 and is therefore at low risk from tidal/fluvial flooding. Construction would also be managed and controlled to ensure no contamination of groundwater is caused during the construction phase.

- 6.73 Having reviewed the proposals and associated documents which accompanied the planning application, ECC Flood and Water Management confirm that, subject to the imposition of reasonable planning conditions, the proposal would provide appropriate measures to manage surface water through the implementations of SUDS and other engineered hydrological measures.
- 6.74 Requirement k) of Policy SAMU5 is for early engagement with Anglian Water to secure upgrades to both treatment infrastructure and network and to formulate a water and drainage strategy to serve the new development. In response to the application Anglian Water state that the foul drainage from this development is in the catchment of Clacton Holland Haven Water Recycling Centre, which currently does not have capacity to treat the flows from your development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning permission and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the planning authority grant planning permission.
- 6.75 Anglian Water state that the development would lead to an unacceptable risk of flooding downstream, therefore a drainage strategy would need to be prepared in consultation with them to determine mitigation measures. They request that a condition requiring the drainage strategy covering the issue is imposed. From this basis it is considered that the Council could not substantiate reasons for refusal of planning permission in respect of sewerage capacity; and the proposal would not give rise to flood risk emanating from surface water generated by the proposal.
- 6.76 Overall no significant adverse or cumulative effects on water resource receptors have been identified during the construction and operational phases of the proposed development; therefore it would be compliant with legislation and planning policy.

Ground Conditions and Contamination

- 6.77 Section 15 of the NPPF states that to prevent unacceptable risks from pollution and land instability, planning decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
- 6.78 Historically the site has predominately been used for agriculture and has not been developed with the exception of the farmyard in its north west corner which could have hot spots of contamination from chemical, fuel or oil spillages. The submitted report on a Phase 1 Desk Study and Risk Assessment states that a historical landfill is listed associated with a former gravel pit some 80m to the south-east of the site and which was licensed to take commercial and household waste between 1958 and 1966. This historical landfill could be a source of ground gases which could influence the eastern, central and south eastern parts of the site.
- 6.79 In addition, the Envirocheck Report which is appended to the Phase 1 Desk Study report indicates a number of areas of potentially infilled land which in addition to the historical landfill identifies an area close to the south western corner which corresponds with the brick and tile works noted on the historical maps. It should be noted that this area has been redeveloped for housing (the estate which includes First and Second Avenue, and the streets leading from them), however, it is possible that the former brick and tile works could also be a potential source of ground gases.

- 6.80 Therefore it is recommended that an appropriately worded condition be imposed that requires further investigation to assess the potential for ground gases/vapours and establishing the concentrations of potential contaminants in particular areas of the site.

Air quality

- 6.81 NPPF paragraph 170 states that the planning system should contribute to and enhance the natural and local environment by, amongst other things, preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of air pollution. The PPG provides more detailed advice on air quality.
- 6.82 As confirmed in the submitted Air Quality report a qualitative construction dust risk assessment has been carried out based on the IAQM guidance 'Guidance on the Assessment of Dust from Demolition and Construction 1.1'. The dust emission magnitude for all activities: demolition, earthworks, construction and trackout, were considered. The sensitivity of the area to dust soiling effects and human health impact were also considered. An overall risk of the dust impact for each of the activities was derived. The risk for dust soiling impact for all activities is considered to be 'Medium' to 'High', and the risk of impact to human health impact is considered to be 'Negligible' to 'Low Risk'.
- 6.83 The Environmental and Sustainability Management Plan (EMP) – PEP Part 3 indicates that construction activities related to the development would cause some nuisance to local population, however with appropriate mitigation measures recommended within the EMP and IAQM the resulting residual dust impacts during the construction phase would be 'insignificant'. Based on the air quality data available from the nearest non-automatic monitoring site (triplicate site 14/15/16, A133 Bypass) and background concentrations from DEFRA and non-automatic triplicate (11/12/13) site at Town Hall, a qualitative assessment of air quality impacts during the operational phase of the development has been carried out and it is considered that the operational phase impacts would also be 'Insignificant'. Therefore, based on available information the overall local air quality is unlikely to be an issue at the site; and furthermore, it is considered that future receptors (residential dwellings, staff and students at the school), once in operation, would be exposed to pollutant concentrations below the National Air Quality Objectives (NAQOs) and the locations are considered suitable for the proposed use.
- 6.84 In the absence of significant operational effects and taking into consideration the low background air pollutant levels, the site is considered to be suitable for development in air quality terms. Therefore it is considered that the proposal, during either the demolition/construction or operational phases would not have a detrimental effect upon the air quality of the surrounding area.

Noise & Vibration

- 6.85 As previously referred to in this report, NPPF paragraph 170 states that the planning system should contribute to and enhance the natural and local environment, in this case by, *inter alia*, preventing both new and existing development from contributing to or being put at unacceptable risk from noise pollution. Para. 180 of the NPPF stipulates that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.
- 6.86 The PPG states that noise needs to be considered when new developments may create additional noise and when taking decisions about new development, there may also be

opportunities to consider improvements to the acoustic environment. It goes on to say that decision taking should take account of the acoustic environment and in doing so consider:

- whether or not a significant adverse effect is occurring or likely to occur;
- whether or not an adverse effect is occurring or likely to occur; and
- whether or not a good standard of amenity can be achieved.

- 6.87 A baseline noise survey has been undertaken and measurements taken over a representative time period. The noise levels have then been used to determine noise sources, such as the railway line and levels affecting the proposed development. Noise from additional road traffic associated with the scheme is unlikely to have a significant effect; and any impact of noise and vibration associated with construction activity would be managed through controls on the hours of construction and piling. All new dwellings would be designed to ensure that an acceptable living environment can be achieved.
- 6.88 Environmental Protection confirm that they are satisfied with the content of the acoustic report and require no further information or have no adverse comments at this time. Therefore, the proposed development has been assessed and it has been identified that with appropriate mitigation measures in place, there would be no significant effect to new or existing noise sensitive receptors.

Living Conditions

- 6.89 Paragraph 117 of the NPPF states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 6.90 Whilst matters of layout and scale are reserved for future determination, with regard to privacy, the Essex Design Guide states that *“with rear-facing habitable rooms, the rear faces of opposite houses approximately parallel, and an intervening fence or other visual barrier which is above eye level from the potential vantage point, a minimum of 25 metres between the backs of houses may be acceptable”*. It goes on to state that *“where new development backs on to the rear of existing housings, existing residents are entitled to a greater degree of privacy to their rear garden boundary, and therefore where the rear faces of the new houses may not encroach any closer than 15 metres to an existing rear boundary, even though with a closer encroachment 25 metres between the backs of houses would still be achieved”*.
- 6.91 The distances between new and existing dwellings could be well in excess of those required by the Essex Design Guide and Officers consider that there are no reasonable grounds for refusal in terms of the relationship between existing dwellings in the locality and the proposed development. Consequently, adherence to these standards would ensure that the living conditions of existing residents would be protected from overlooking; and a loss of outlook and daylight/sunlight.
- 6.92 Furthermore, the submission indicates how landscaping could be retained and enhanced within the application site, so as to further mitigate the effects of the development. Officers consider that a detailed layout could be designed which achieves an appropriate relationship with the existing dwellings and which would also be sympathetic to the character of the surrounding area and the wider landscape. All in all it is considered that the above measures would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts.

Planning Obligations

- 6.93 For the avoidance of doubt and duplication, the socio-economic impacts that would be mitigated through planning obligations (in addition to any previously cited within this report)

secured through S106 of the Town and Country Planning Act 1990, and the policy basis for requiring them, are included in this section of the report. Ultimately, para. 54 of the NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

- 6.94 Consequently, this section also outlines the manner in which planning obligations would satisfy the tests set out in the Community Infrastructure Levy Regulations 2010 (CIL Regs) and paragraph 56 of the NPPF, which states that obligations should only be sought where they meet all of the following tests:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.

- 6.95 Section 8 of the NPPF requires the planning system to take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

Affordable Housing

- 6.96 Para. 62 of the NPPF requires, inter alia, LPAs where they have identified that affordable housing is needed, to set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities.
- 6.97 Adopted Policy HG4 seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing, whereas draft Policy LP5 requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as Affordable Housing or Council Housing, subject to viability testing. This is in compliance with the requirements of requirement a. of draft Policy SAMU5 that specifies that the proposal should be for at least 280 new homes of a mixed size and type to include affordable housing as per the Council's requirements.

Education

- 6.98 NPPF paragraph 94 states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should: Give great weight to the need to create, expand or alter schools; and work with schools promoters to identify and resolve key planning issues before applications are submitted.
- 6.99 In accordance with requirement d) of draft Policy SAMU5, a new 2 form entry primary school with co-located 56 place early years and childcare facility (D1) use on 2.1 hectares of land is proposed to be provided as required by the Local Education Authority (LEA). The application makes provision for this requirement and the applicant has liaised directly with Essex County Council to determine where and how this would be delivered.
- 6.100 Furthermore, requirement l) of draft Policy SAMU5 is for a financial contribution to early years and childcare and secondary education provision. The financial contributions, index linked from April 2017 and based on the projected future population of the scheme have been summarised thus from the consultation response from ECC Education:

- Early Years & Childcare: £220,668.80;
- Primary Education: £1,069,656; and
- Secondary Education: £1,083,320 plus £196,224 for School Transport;

Healthcare

- 6.101 NPPF paragraphs 91 and 92, amongst other things, state that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Planning decisions, in turn, should aim to achieve places which promote opportunities for meetings between members of the community, by planning positively for the provision and use of shared space, community facilities.
- 6.102 Requirement m. of draft Policy SAMU5 is for financial contributions towards facilities such as health provision as required by the NHS/CCG either through the Community Infrastructure Levy or Section 106 Planning Obligations to be made. The NHS have stipulated that a financial contribution of £97,152 towards the relocation costs for Thorpe Surgery (including its branch surgery Kirby Cross) is required.

Public Open Space

- 6.103 NPPF paras. 91 and 92, amongst other things, state that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities; and requirement c) of Policy SAMU5 is for 1 hectare of Public Open Space (POS) to be provided within the development
- 6.104 As highlighted above, the landscape scheme at the Reserved Matters stage would include an area of POS of 1ha, which the illustrative masterplan identifies as predominantly being in two parcels: between the secondary road proposed to serve the employment land and the school site; and along the northern edge of the railway line, including the copse through which PRoW 5 currently passes.
- 6.105 It would also be necessary to set aside a dedicated area with restricted access as a reserve for Slow Worms in addition to the POS, the precise location and area of which would be determined prior to the submission of the first reserved matters applications. All of the above would be managed by a Management Company specifically set up to look after the green areas of the site, amongst other things.

Ecology (off site)

- 6.106 As highlighted above both Essex Wildlife Trust and Natural England have expressed concerns with regard to the impacts that an increase in visitors is already having upon Weeleyhall Wood and have costed work to improve rides and install boardwalks at around £55,000. Clearly the proposal would likely add to these pressures and therefore it is considered appropriate to seek a proportionate contribution, especially as the use of Weeleyhall Wood would in part mitigate the use of the international wildlife sites by future residents.

Highways and Transport

- 6.107 ECC Highways state that they have assessed the highway and transportation impact of the proposal including full assessment of the Transport Assessment, examination of all documents submitted, and undertaken a site visit and do not wish to raise an objection subject to the imposition of reasonable planning conditions and obligations. It is considered that the majority of the required works can be covered by planning condition, with the exception of the provision of a financial contribution towards the proposed improvements at

the A133/B1033/ services and Frating roundabouts, which would need to be covered by a planning obligation.

- 6.108 It is considered that the proposal, during either the construction or operational phases would not have a detrimental effect upon the highway network or the general accessibility of the surrounding area with sustainable mitigation measures proposed and to be secured by the appropriate means, in accordance with requirements e.-g. of Policy SAMU5 requiring the principal point of vehicular access into the site off Thorpe Road; with capacity and/or safety enhancements to the local highway network and to public transport, cycle and pedestrian infrastructure, where necessary.

Public Rights of Way

- 6.109 Requirement h. of draft Policy SAMU5 is for the provision of a footbridge bridge over the railway line, as a replacement for the existing level crossing. Once constructed this would be transferred to Network Rail with a commuted sum (currently undetermined) for future maintenance. As part of this, PRoW 5 would be diverted away from its existing alignment over the level crossing via footbridge on completion.
- 6.110 The above obligations are summarised here and overall, it is considered that they satisfy the tests for planning obligations set out in the CIL Regulations, which are necessary to: make the development acceptable in planning terms; directly relate to the development; and fairly and reasonable related to the development in scale and kind:
- **Affordable Housing** – 30%, specific tenure and mix to be agreed at the reserved matter/s stage/s;
 - **Education** - 2.1ha of land to accommodate a 2-form entry primary school and commensurate nursery; Early Years & Childcare: £220,668.80 towards a 56 place nursery; Primary Education: £1,069,656; towards the new primary school; Secondary Education: £1,083,320 plus £196,224 for School Transport;
 - **Healthcare** - Financial contribution of £97,152 towards relocation costs for Thorpe Surgery (including its branch surgery Kirby Cross);
 - **Public Open Space** - Public Open Space, equipped play areas and Ecology Land (for Slow Worms) - To be transferred to management company and laid out before transfer;
 - **Ecology (off site)** - Financial contributions towards off-site ecological mitigation - to improve access within Weeleyhall Wood SSSI;
 - **Highways and Transport** – The provision of a financial contribution towards the proposed improvements at the A133/B1033/ services and Frating roundabouts as identified in the Tending Local Plan Highways and Transportation Modelling work.
 - **Public Rights of Way (PRoW)** – Footbridge to be constructed over the railway line and transferred to Network Rail on completion with a commuted sum for future maintenance, PRoW 5 to be diverted away from existing level crossing via footbridge on completion.

Planning Balance/Conclusion

- 6.111 This is an application for Outline Planning permission, with all matters reserved with the exception of access. The applicant has provided details of how they propose to access the site off Thorpe Road; and the Local Highway Authority has no objection to the proposed arrangements. All other matters (Appearance; Landscaping; Layout; and Scale) are

reserved and it can therefore be said that the application seeks to establish the principle of residential development of the site.

- 6.112 NPPF paragraph 10 stipulates that at its heart is a presumption in favour of sustainable development. For decision-taking (NPPF para. 11) this means approving development proposals that accord with the development plan without delay; but where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.
- 6.113 It has been acknowledged that the site is currently situated outside a defined settlement boundary, and therefore for all intents and purposes rural policies of restraint apply. However, the site is specifically allocated through Policy SAMU5 for a mix of residential development, community facilities and public open space in the emerging Local Plan. This can be afforded some weight in the decision making process due to it being at the Publication Draft stage, and is a material consideration in the determination of this planning application. **The proposal is referred back to Planning Committee, following its decision to defer the application on 21 August 2018 until the outcome of the Section 2 examination of the Council's emerging Local Plan. The applicant has sought legal advice and has requested that the Council determine the application now, on the grounds that to defer for an indeterminate period of time, when other similar sites have been granted or resolved to be granted planning permission, would amount to unreasonable behaviour, which would potentially have significant financial implications for the public purse though the costs regime of the appeal process.**
- 6.114 **As has been found above, refusal of planning permission on grounds of prematurity will seldom be justified, therefore if not minded to approve the development, Members are respectfully requested to either outline the council's case for defending an appeal against non-determination of the application, or set out reasonable reasons for refusal of planning permission.**
- 6.115 **Such a decision must however be made within the context that** the application is accompanied by a suite of technical drawings and documents supporting the proposal and all in all Officers consider that no significant adverse or cumulative effects on the local environment or population would be caused, with it being deemed to be compliant with legislation and national planning policy.
- 6.116 In addition, whilst outline in form, Officers are content that subject to the imposition of reasonable planning conditions and obligations that the general principle of this level of development on the site is considered acceptable; and is in keeping with both the site's location on the edge of the village, along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features. Furthermore, the proposal would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts whilst providing much needed housing within the District.

Background Papers

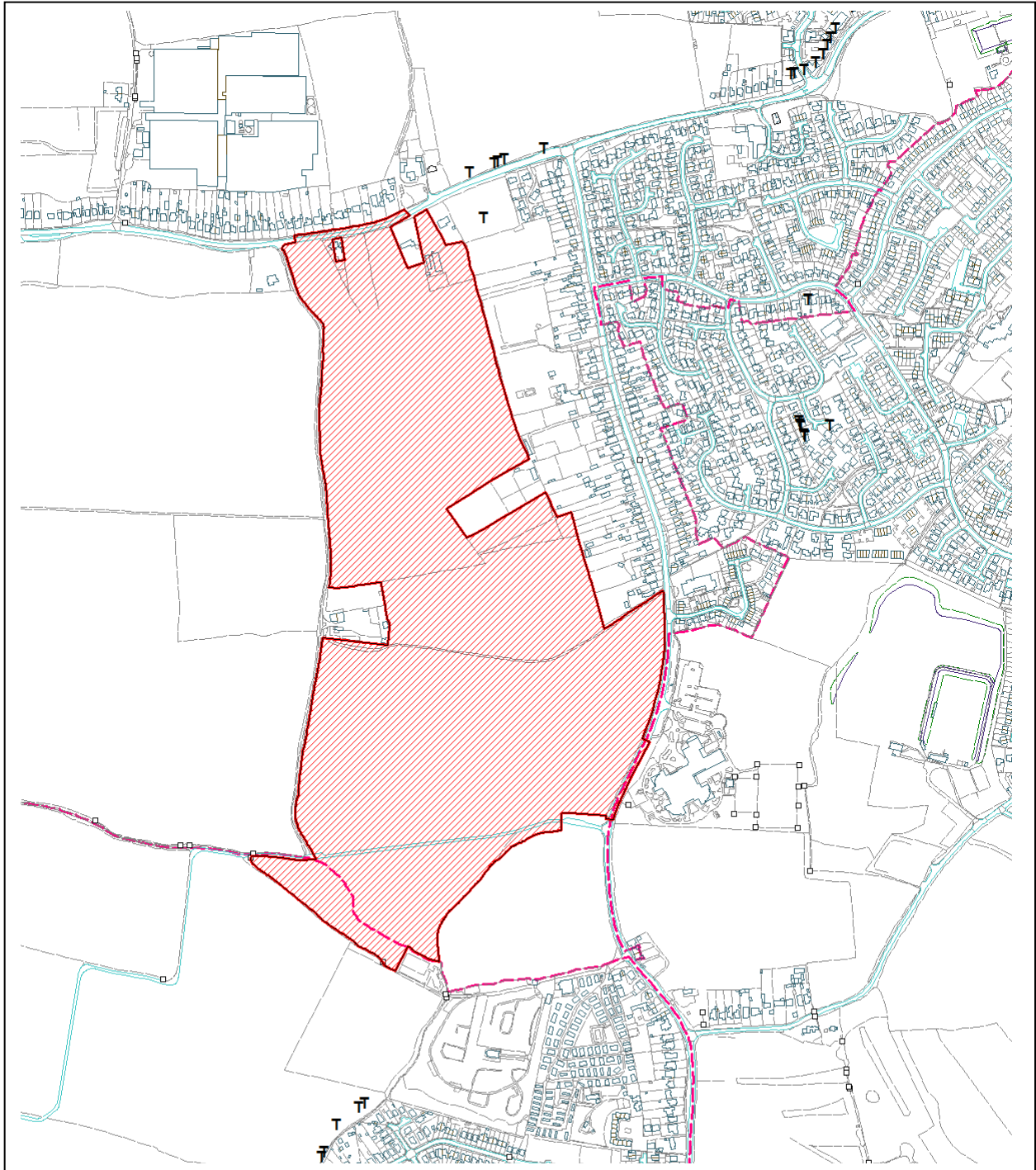
None.

PLANNING COMMITTEE

13th November 2018

REPORT OF THE HEAD OF PLANNING

A.2 PLANNING APPLICATIONS - 17/01229/OUT - LAND ADJACENT AND TO THE REAR OF 755 AND 757 ST JOHNS ROAD CLACTON ON SEA CO16 8BJ



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Application:	17/01229/OUT	Town / Parish: Clacton (un-parished)
Applicant:	Persimmon Homes Essex and Messrs M & I Low, K Francis and S & A Duncan	
Address:	Land adjacent and to the rear of 755 and 757 St Johns Road Clacton On Sea CO16 8BJ	
Development:	Outline application (all matters reserved except means of access) for the redevelopment (including demolition) of the site for up to 950 residential units (including affordable housing) with a new Neighbourhood Centre comprising a local healthcare facility of up to 1500sqm NIA and up to 700sqm GFA for use classes A1 (shops), A3 (food and drink) and/or D1 (community centre); a 2.1ha site for a new primary school; and associated roads, open space, drainage, landscaping and other associated infrastructure.	

On 30th May 2018, the Planning Committee resolved to grant outline planning permission for this major development at Rouses Farm, Clacton - subject to the completion of a section 106 legal agreement and a series of planning conditions, including those recommended by Essex County Council in its capacity as the Highway Authority. On 21st August 2018, the Committee resolved to agree some amendments to the planning conditions controlling the phasing of highway works and off-site highway improvements following the revised recommendations of the Highway Authority.

Following the Planning Committee's original decision on 30th May, there has been positive progress in preparing the s106 agreement. The developer has been working very constructively with the solicitors of Tendring District Council and Essex County Council to complete the agreement and this follows independent viability testing which has proven that the development is economically viable, albeit only with a small reduction in the amount of affordable housing to be delivered on site. However at the time of writing the negotiations, mainly on points of legal wording and detail, are still ongoing and it is likely that the s106 agreement will not be completed within the six months originally granted.

The reason for this further report is to request a further three months to 1st March 2019 to allow for the completion of the s106 agreement.

To assist the Committee, the original report to the Planning Committee on 30th May 2018 is replicated below with any relevant updates from the 21st August 2018 Committee and proposed revisions to the current resolution indicated in bold and in [square brackets].

1. Executive Summary

- 1.1 The application site known as 'Rouses Farm' comprises 42 hectares of predominantly agricultural land on the western side of Clacton on Sea and north of Jaywick. This land is allocated for a major residential and mixed-use development in the Council's emerging Local Plan and outline planning permission is now being sought for up to 950 residential units; a new Neighbourhood Centre comprising a local healthcare facility and units for shops, food and drink and/or a community centre; a 2.1ha site for a new primary school; and associated roads, open space, drainage, landscaping and other associated infrastructure.

- 1.2 The site lies outside of the settlement development boundary for Clacton within the adopted Local Plan but in the emerging Local Plan it is specifically allocated through Policy SAMU4 for a mix of residential development, community facilities and public open space. The emerging plan has now reached an advanced stage of the plan-making process, the Rouses Farm development is the subject of very few unresolved objections and the Council relies on this site to boost the supply of housing in line with government planning policy and to maintain a five-year supply of deliverable housing land. It is therefore considered that the allocation of this land for residential and mixed use development in the emerging Local Plan should carry considerable weight in the decision making process. Officers have therefore worked positively with the applicants to resolve all technical planning issues with a view to bringing the application to the Planning Committee with a recommendation of approval.
- 1.3 This is an application for outline planning permission with all matters reserved with the exception of access. Other matters including appearance, landscaping, layout and scale are reserved for approval at a later date and therefore this application seeks only to establish the principle of residential and mixed-use development of the site and the arrangements for access. The applicant has provided details of how they propose to access the site off St. John's Road and Jaywick Lane and the Highway Authority, having modelled the impacts of this development on the highway network as part of the Local Plan process, has no objections in principle to the proposed arrangements, subject to conditions requiring the approval of further details and certain off-site highway improvements **[as revised]**.
- 1.4 Due to the large scale and potential impacts of the development, planning regulations require the preparation of an Environmental Statement. The applicant's Environmental Statement contains a thorough assessment of the following matters: landscape & visual; ecology and nature conservation; archaeology and cultural heritage; transport & access; air quality; noise & vibration; soils and agriculture; hydrology, flood risk & drainage; ground conditions and contamination; and socio-economics. All in all the Environmental Statement concludes that no significant adverse or cumulative effects on the environment have been identified during the construction and operational phases of the proposed development. Natural England, Historic England and the Environment Agency are the key consultees for development requiring an Environmental Statement and their comments have all been taken into account and addressed as appropriate through the determination of this application.
- 1.5 The application is the subject of just four local objections raising general concerns about the impact of the development in this location. The have all been considered in this report and are addressed accordingly.
- 1.6 Officers are content that subject to the imposition of reasonable planning conditions and s106 planning obligations that the general principle of this level of development on the site is acceptable. It is in keeping with both the site's location on the edge of the town and along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features. Furthermore, the proposal would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts whilst significantly boosting housing supply within the district in line with the Council's own emerging Local Plan.
- 1.7 The recommendation is therefore to approve outline planning permission subject to the completion of a legal obligation under Section 106 of the Town and Country Planning Act 1990 and a number of controlling conditions. The applicant is keen to progress with the development and has already drafted a s106 legal agreement to secure all of the relevant requirements and this is being scrutinised by the Council's lawyers. The applicant has also prepared a viability assessment for the development which is being tested by independent valuers to determine the level of s106 contributions the development can afford. **[Independent viability testing has now proven that the development is viable, albeit only with a reduction in affordable housing]**

Recommendation: That the Head of Planning is authorised to grant outline planning permission for the development subject to:-

a) Within 6 (six) months of the date of the Committee's resolution to approve **[to be revised to 'no later than 1st March 2019]**, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant and subject to the completion of viability testing):

- On-site Council Housing/Affordable Housing (the quantum and tenure to be agreed by the Head of Planning following the satisfactory completion of viability testing);
- Provision of land on-site for a new healthcare facility together with a financial contribution towards its provision. [In the event that the land is not required, the financial contribution will be spent on health facilities elsewhere (to be determined by the NHS);
- Transfer of new open space, including proposed equipped play areas to the Council or a management company;
- Land for a new primary school and early years and childcare facility on site with financial contributions towards the provision of those facilities;
- Financial contributions to create additional secondary school places;
- New neighbourhood centre; and
- Financial contributions towards off-site ecological mitigation.

[Also the routing of bus services through the development – as advised on the 30th May 2018 update sheet]

b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).

(i) Conditions:

1. Standard 3 year time limit for submission of first reserved matters application (which can thereafter be submitted in phases to reflect the phasing of the development).
2. Standard 2 year limit for commencement of development following approval of reserved matters.
3. Details of appearance, layout, scale and landscaping (the reserved matters).
4. Layout and phasing plan/programme.
5. Compliance with approved access plans.
6. Development to be in accordance with the approved parameters plans.
7. Development to contain up to (but no more than) 950 dwellings and quantum of non-residential development specified.
8. Highways conditions (as recommended by the Highway Authority) relating to:
 - detailed junction arrangements on St. Johns Rd and Jaywick Lane;
 - cycleway/footway across St. Johns Rd and Jaywick Lane frontages;
 - bus services to be routed through the development;
 - residential travel plans;
 - improvements at existing St. John's Rd/Jaywick Lane junction;
 - signals at the Bockings Elm junction of St. John's Rd and Cloes Lane;
 - improvements to St. Johns Rd/Peter Bruff Avenue junction;
 - improvements at St. John's roundabout;
 - road safety assessments to be completed for all the above measures;
 - no discharge of surface water onto the highway;
 - wheel cleaning facilities; and
 - car parking spaces and garages.

[The Highway Authority's recommended conditions are revised to cover:

- The need for a construction management plan;
- The new junction onto St. John's Road – to be delivered prior to first occupation of Phase 1;
- The new junction onto Jaywick Lane – to be delivered prior to occupation of phase 2A, 3 or 4;
- The completion of the St. John's Road to Jaywick Lane link road – to be completed prior to occupation of phase 3 or 4;
- The completion of a cycleway/footway along Jaywick Lane frontage prior to phase SA, 3 or 4;
- Improvements to St. John's Road/Jaywick Lane and St. Johns Road/Cloes Lane junctions – to be delivered prior to occupation of 250 dwellings;
- Improvements to St. Johns Road/Peter Bruff Avenue junction and the St. John's Roundabout – to be delivered prior to occupation of 500 dwellings;
- Improvements to existing bus stops in St. John's Road and provision of pedestrian access to those stops;
- Provision of a high quality bus service through the development via the link road or £500,000 contribution towards its delivery (as being secured the s106 agreement);
- Provision of a pedestrian link between the proposed primary school and neighbourhood centre in advance of the link road being completed; and
- Residential travel plan and residential travel pack.]

9. Construction methods statement.

10. Surface water drainage scheme and management arrangements.

11. Foul water drainage strategy.

12. Archaeological assessment/trial trenching.

13. Contaminated land investigation and remediation.

14. Piling restrictions.

15. Details of levels, lighting, boundary treatments, materials and refuse storage/collection points.

16. Hard and soft landscaping plan/implementation.

17. Tree protection measures.

18. Construction Environmental Management Plan.

19. Landscape and ecology mitigation/management plan.

20. Details of dog walking routes (part of ecological mitigation).

21. Broadband connection.

22. Local employment arrangements.

23. Details of water, energy and resource efficiency measures.

- c) That the Head of Planning (or the equivalent authorised officer) be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, or further period as agreed, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

National Policy

National Planning Policy Framework (NPPF)

- 2.1 The NPPF sets out the Government's planning policies and how these are expected to be applied at the local level. **[Please note that a new version of the NPPF was published in July 2018 but many of the key principles remain unchanged. Where relevant paragraph numbers have changed, these are indicated below.]**

2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:

- an economic role;
- a social role; and
- an environmental role.

[The new NPPF refers to these as economic, social and environmental 'objectives']

2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.

2.4 Section 6 [**now section 5**] of the NPPF relates to delivering a wide choice of quality new homes. It requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years worth of deliverable housing land against their projected housing requirements (plus a 5% [**or 10%**] or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

2.5 Paragraph 187 of the NPPF states "*Local planning authorities should look for solution rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area*". [**Paragraph 38 in the 2018 NPPF similarly states: "Local planning authorities should approach decisions on proposed development in a positive and creative way" and "Decision makers at every level should seek to approve applications fro sustainable development where possible"**].

National Planning Practice Guidance (PPG)

2.6 The PPG provides additional planning guidance from Central Government on a range of issues, including, but not limited to: Air Quality; Climate Change; Design, Flood risk and coastal change; Light Pollution; Natural Environment; Noise; and Travel Plans, Transport Assessments and Statements.

Local Plan Policy

2.7 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 215 of the NPPF [**now paragraph 213**] allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the

NPPF. Paragraph 216 [**now paragraph 48**] of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy.

- 2.8 As of 16th June 2017, the emerging Local Plan is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. As this plan is currently in the process of being examined, its policies cannot carry the full weight of adopted policy. However, because the plan has reached an advanced stage in the plan making process its policies can carry more weight in the determination of planning applications. Where emerging policies are particularly relevant to a planning application and can be given weight in line with the principles set out in paragraph 216 [now 48] of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

Tendring District Local Plan (2007) – as ‘saved’ through a Direction from the Secretary of State.

Relevant policies include:

QL1: Spatial Strategy: Directs most new development towards urban areas and seeks to concentrate development within settlement development boundaries. Also defines Clacton as a larger urban area where most new development is to be concentrated.

QL2: Promoting Transport Choice: Requires developments to be located and designed to avoid reliance on the use of the private car.

QL3: Minimising and Managing Flood Risk: Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

QL6: Urban Regeneration Areas: Defines West Clacton as an urban regeneration area and the focus for investment in social, economic and transportation infrastructure along with initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety and accessibility.

QL8: Mixed-Uses: Encourages a mix of complementary and compatible uses within town, district and local centres and urban regeneration areas.

QL9: Design of New Development: Provides general criteria against which the design of new development will be judged.

QL10: Designing New Development to Meet Functional Needs: Requires development to meet functional requirements relating to access, community safety and infrastructure provision.

QL11: Environmental Impacts: Requires new development to be compatible with its surrounding land uses and to minimise adverse environmental impacts.

QL12: Planning Obligations: States that the Council will use planning obligations to secure infrastructure to make developments acceptable, amongst other things.

ER31: Town Centre Hierarchy and Uses: Seeks to direct ‘town centre uses’ including retail, leisure, offices and tourism to defined town, district and local centres within the district to support their vitality, viability and regeneration objectives.

ER32: Town Centre Uses Outside Existing Town Centres: Sets the criteria against which proposals for town centre uses outside of defined town centres will be judged. It requires that new development is of an appropriate scale, does not harm the vitality and viability of existing centres and is accessible by a choice of transport modes.

HG1: Housing Provision: Sets out the strategy for delivering new homes to meet the need up to 2011.

HG3: Residential Development Within Defined Settlements: Supports appropriate residential developments within the settlement development boundaries of the district’s towns and villages.

HG3a: Mixed Communities: Promotes a mix of housing types, sizes and tenures to meet the needs of all sectors of housing demand.

HG4: Affordable Housing in New Developments: Seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing.

HG6: Dwellings Size and Type: Requires a mix of housing types, sizes and tenures on developments of 10 or more dwellings.

HG7: Residential Densities: Requires residential developments to achieve an appropriate density. This policy refers to minimum densities from government guidance that has long since been superseded by the NPPF.

HG9: Private Amenity Space: Requires a minimum level of private amenity space (garden space) for new homes depending on how many bedrooms they have.

COM1: Access for All: Requires publically accessible buildings to provide safe and convenient access for visitors, customers and employees of all abilities.

COM2: Community Safety: Requires developments to contribute towards a safe and secure environment and minimise the opportunities for crime and anti-social behaviour.

COM4: New Community Facilities (including Built Sports and Recreation Facilities): Supports the creation of new community facilities where they are acceptable in terms of accessibility to local people, impact on local character, parking and traffic and other planning considerations.

COM6: Provision of Recreational Open Space for New Residential Developments: Requires residential developments on sites of 1.5 hectares or more to provide 10% of the site area as public open space.

COM21: Light Pollution: Requires external lighting for new development to avoid unacceptable impacts on the landscape, wildlife or highway and pedestrian safety.

COM22: Noise Pollution: Requires noise-sensitive developments including houses and schools to be either located away from, or protected from (through mitigation measures) existing sources of noise.

COM23: General Pollution: States that permission will be refused for developments that have a significant adverse effect through the release of pollutants.

COM24: Health Care Provision: Supports developments for new and improved health care facilities that are in close proximity to the communities they intend to serve, acceptable in highways terms, accessible by a variety of transport modes and provide sufficient car parking.

COM26: Contributions to Education Provision: Requires residential developments of 12 or more dwellings to make a financial contribution, if necessary, towards the provision of additional school places.

COM29: Utilities: Seeks to ensure that new development on large sites is or can be supported by the necessary infrastructure.

COM31a: Sewerage and Sewage Disposal: Seeks to ensure that new development is able to deal with waste water and effluent.

EN1: Landscape Character: Requires new developments to conserve key features of the landscape that contribute toward local distinctiveness.

EN2: Local Green Gaps: Seeks to keep areas designated as Local Green Gaps open and essentially free of development in order to prevent the coalescence of settlements and to protect their rural setting.

EN4: Protection of the Best and Most Versatile Agricultural Land: Seeks to ensure that where agricultural land is needed for development, poorer quality land is used as a priority over higher quality land.

EN6: Biodiversity: Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

EN6a: Protected Species: Ensures protected species, including badgers are not adversely impacted by new development.

EN6b: Habitat Creation: Encourages the creation of new wildlife habitats in new developments, subject to suitable management arrangements and public access.

EN12: Design and Access Statements: Requires Design and Access Statements to be submitted with most planning applications.

EN13: Sustainable Drainage Systems: Requires developments to incorporate sustainable drainage systems to manage surface water run-off.

EN23: Development within the Proximity of a Listed Building: Guards against developments that would have an adverse impact on the setting of Listed Buildings.

EN29: Archaeology: Requires the archaeological value of a location to be assessed, recorded and, if necessary, safeguarded when considering development proposals.

TR1a: Development Affecting Highways: Requires developments affecting highways to aim to reduce and prevent hazards and inconvenience to traffic.

TR1: Transport Assessment: Requires major developments to be supported by a 'Transport Assessment' and states that developments that would have materially adverse impacts on the transport system will be refused unless adequate mitigation measures are put in place.

TR2: Travel Plans: Requires 'Travel Plans' for developments likely to have significant transport implications.

TR3a: Provision for Walking: Seeks to maximise opportunities to link development with existing footpaths and rights of way and provide convenient, safe attractive and direct routes for walking.

TR4: Safeguarding and Improving Public Rights of Way: Encourages opportunities to expand the public right of way network. Requires developments affecting an existing public right of way to accommodate the definitive alignment of the path or, where necessary, seek a formal diversion.

TR5: Provision for Cycling: Requires all major developments to provide appropriate facilities for cyclists.

TR6: Provision for Public Transport Use: Requires developments to make provision for bus and/or rail where transport assessment identifies a need.

TR7: Vehicle Parking at New Development: Refers to the adopted Essex County Council parking standards which will be applied to all non-residential development.

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

Relevant policies include:

SP1: Presumption in Favour of Sustainable Development: Follows the Planning Inspectorate's standard wording to ensure compliance with the NPPF.

SP5: Infrastructure and Connectivity: Requires the provision of infrastructure, services and facilities that are identified to serve the needs arising from new development.

SP6: Place Shaping Principles: Requires the highest standards of built and urban design and sets out the key principles that will apply to all new developments.

SPL1: Managing Growth: Identifies Clacton as a 'Strategic Urban Settlement' within a hierarchy of settlements designed to direct future growth to the most sustainable locations. Strategic Urban Settlements are expected to accommodate the largest proportion of the district's housing stock over the plan period to 2033.

SPL2: Settlement Development Boundaries: Seeks to direct new development to sites within settlement development boundaries. The boundary for Clacton extends to include the application site.

SPL3: Sustainable Design: Sets out the criteria against which the design of new development will be judged.

HP1: Improving Health and Wellbeing: Requires a Health Impact Assessment on all development sites that deliver 50 or more dwellings and financial contributions towards new or enhanced health facilities where new housing development would result in a shortfall or worsening of health provision.

HP2: Community Facilities: Requires development to support and enhance community facilities where appropriate, including by providing new facilities on site or contributing towards enhanced community facilities elsewhere to meet needs arising from the proposed development.

HP5: Open Space, Sports and Recreation Facilities: Requires new developments to contribute to the district's provision of playing pitches and outdoor sports facilities and also requires larger residential developments to provide land as open space with financial contributions toward off-site provision required from smaller sites.

LP1: Housing Supply: Sets out the sources of new housing that will contribute towards meeting objectively assessed housing needs in the period up to 2033. The application site is one of the 'Strategic Allocations' for mixed-use development expected to deliver a large proportion of Tendring's new housing.

LP2: Housing Choice: Promotes a range of house size, type and tenure on large housing developments to reflect the projected needs of the housing market.

LP3: Housing Density: Policy requires the density of new housing development to reflect accessibility to local services, minimum floor space requirements, the need for a mix of housing, the character of surrounding development and on-site infrastructure requirements.

LP4: Housing Layout: Policy seeks to ensure large housing developments achieve a layout that, amongst other requirements, promotes health and wellbeing; minimises opportunities for crime and anti-social behaviour; ensures safe movement for large vehicles including emergency services and waste collection; and ensures sufficient off-street parking.

LP5: Affordable and Council Housing: Requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as Affordable Housing or Council Housing.

PP3: Village and Neighbourhood Centres: Identifies that a new neighbourhood centre is proposed for the development at Rouses Farm and that any retail units created will receive future protection against the loss to other uses.

PP12: Improving Education and Skills: Requires the impacts of development on education provision to be addressed at a developer's costs, either on site and/or through financial contributions. The policy also requires applicants to enter into an Employment and Skills Charter or Local Labour Agreement to ensure local contractors are employed to implement the development and that any temporary or permanent employment vacancies (including apprenticeships) are advertised through agreed channels.

PPL1: Development and Flood Risk: Seeks to direct development away from land at a high risk of flooding and requires a Flood Risk Assessment for developments in Flood Zone 1 on sites of 1 hectare or more.

PPL3: The Rural Landscape: Requires developments to conserve, where possible, key features that contribute towards the local distinctiveness of the landscape and include suitable measures for landscape conservation and enhancement.

PPL4: Biodiversity and Geodiversity: Requires existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm.

PPL5: Water Conservation, Drainage and Sewerage: Requires developments to incorporate sustainable drainage systems to manage surface water run-off and ensure that new development is able to deal with waste water and effluent.

PPL7: Archaeology: Where developments might affect archaeological remains, this policy requires proper surveys, investigation and recording to be undertaken.

PPL9: Listed Buildings: Says 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.

CP1: Sustainable Transport and Accessibility: Requires the transport implications of development to be considered and appropriately addressed.

CP2: Improving the Transport Network: States that proposals which would have any adverse transport impacts will not be granted planning permission unless these are able to be resolved and the development made acceptable by specific mitigation measures which are guaranteed to be implemented.

CP3: Improving the Telecommunications Network: Requires new development to be served by a superfast broadband (fibre optic) connection installed on an open access basis and that can be directly accessed from the nearest British Telecom exchange and threaded through resistant tubing to enable easy access for future repair, replacement or upgrading.

SAMU4: Development at Rouses Farm, Jaywick Lane, Clacton: Specifically allocates the application site for a mix of residential development, community facilities and public open

space. The policy contains specific requirements in relation to housing numbers, educational facilities, the neighbourhood centre, healthcare provision, highways and open space.

Supplementary Guidance

Essex Design Guide for Mixed Use and Residential Areas (2005)

Essex County Council Car Parking Standards – Design and Good Practice (2009)

3. Relevant Planning History

None.

4. Consultations

TDC Building Control Access for fire fighting appliances should be in accordance with regulation B5.

TDC Environmental Health Satisfied with the content of the acoustic report and the Construction Methods Statement and will require no further information or have no adverse comments at this time.

TDC Principal Tree & Landscape Officer The main body of the land is in agricultural use and is not well populated with trees with most of the vegetation, comprising hedgerows and hedgerow trees situated on the boundary of the land. The largest specimen trees are situated on the northernmost part of the land. The applicant has submitted a tree report and survey in accordance with British standards.

The Oak trees to the north of the site have high visual amenity value and are, generally, in good condition. The report identifies the retention of T13 and T14 close to the proposed position of the new access road from St Johns Road. The other important trees, in terms of their visual amenity value, are the trees within G14 of the tree report. It is considered that the inclusion of these trees within a loosely connected group does not accurately reflect their true value. Although the trees are shown as retained it is important to recognise their long term value.

Tree T11 is also categorised as C1 although it could reasonably fit within the above cascade chart as a B1 or B2 tree. The masterplan identifies the need to fell this tree. It would appear that the tree is not an obstruction to the development of the immediately adjacent land and the tree should be retained if possible. With regard to boundary trees and trees on adjacent land, the site layout shown on the Indicative Masterplan shows the land adjacent to the field boundaries to the south and west as new open space. This will ensure that the boundary trees and hedgerows can be retained.

It appears that the development of the land could take place without harm being caused to the majority of the trees and hedgerows on the land and it is not considered expedient to protect them by way of a Tree Preservation Order at the present time. It may be desirable to formally protect them at some stage in the future to ensure that they are not harmed during the development process or as a result of post

development pressures.

In terms of the impact of the development of the land on the local landscape character and to show the potential harm likely to arise as a result of the development of the land, the applicant has submitted a Landscape and Visual Impact Assessment (LVIA). The information submitted in support of the application provides a genuine and accurate description of the landscape and visual effects. It recognises the changes that will result from the development of the land. However the LVIA does not appear to contain a quantitative or qualitative assessment of the harm that is likely to be caused by the development of the land.

Notwithstanding this, the topography of the land is such that the relatively flat nature of the immediately surrounding area; combined with the Masterplan layout showing Public Open Spaces on the perimeter of much of the site provides the opportunity for a comprehensive soft landscaping scheme to be provided and implemented that would ensure that the development is satisfactorily assimilated into its setting. Should permission be granted then a soft landscaping condition should be attached to secure details of soft landscaping of the whole site, both the residential area and the open space. New tree planting in prominent locations will be a key part of a good soft landscaping scheme.

TDC Waste Management No comments at this stage.

Anglian Water The foul drainage from this development is in the catchment of Jaywick Water Recycling Centre, which currently does not have capacity to treat the flow from your development site. Anglian Water are obligated to accept the foul flows from development with the benefit of planning consent and would therefore take the necessary steps to ensure there is sufficient treatment capacity should the planning authority grant planning permission.

Development will lead to an unacceptable risk of flooding downstream. A drainage strategy will need to be prepared in consultation with Anglian Water to determine mitigation measures. They request a condition requiring the drainage strategy covering the issue(s) to be agreed.

The planning application includes employment/commercial use. To discharge trade effluent from trade premises to a public sewer vested in Anglian Water requires their consent. They ask that an informative be included within the decision notice should permission be granted.

Environment Agency Confirm that it was not necessary for them to be consulted on this application.

Essex County Council (ECC) Archaeology Questions the findings of the Environmental Statement and its consistency with the applicant's archaeological desk based assessment (DBA). Also questions the applicant's chosen method of evaluation (geophysical survey) suggesting that it has been ineffective. Concern therefore that the Environmental Statement is inaccurate in places and fails to adequately establish the significance of the known heritage assets. On similar sites to this, a programme of

rectification of aerial photos and targeted trial trenching would normally be considered an appropriate evaluation method.

Recommended that the applicant conduct a field evaluation to establish the nature and complexity of the surviving archaeological assets. This should be undertaken prior to a planning decision being made. This work would enable due consideration to be given to the historic environment implications and would lead to proposals for preservation in site and/or the need for further investigation.

[Note: Officers are recommending that this additional evaluation work be secured through a planning condition].

ECC Education

Based upon the development of 950 homes, the proposal would produce the need for 85 Early Years and Childcare (EY&C) places, 285 primary places and 190 secondary school places. A new 2 form entry primary school with a 56 place nursery would be delivered on the site.

For the proposed school land, the s106 legal agreement grant ECC an option to take transfer of the land, at nominal cost (usually £1). The option period should open no later than the occupation of 50 homes on the development and close ten years thereafter or, if later, on completion of the development. The land provided, and location therefore, must meet the criteria set out in ECC's Developers Guide and any planning application must include a Land Compliance Study to evidence compliance suitability. A Land Compliance Study has been submitted by the applicant and it is likely that the site proposed for the new primary school and combined EY&C facility will be acceptable subject to a number of arrangements being put in place in order to ensure that the land complies with ECC requirements, these include for example the removal of Japanese Knotweed, removal of any contamination and noise attenuation arrangements.

The breakdown and the cost that the development would need to contribute towards education through the s106 agreement is £1,452,840.92 for EY&C and £4,246,642.50 for Primary Education and £3,675,550 for Secondary Education.

Having reviewed the proximity of the site to the nearest primary and secondary schools, Essex County Council will not be seeking a school transport contribution, however the developer should ensure that safe direct walking and cycling routes to local schools are available.

ECC Flood and Water Management

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, they do not object to the granting of planning permission subject to the imposition of conditions.

ECC Highways

They have assessed the highway and transportation impact of the proposal including full assessment of the Transport Assessment, examination of all documents submitted, and undertaken a site visit and does not wish to raise an objection subject to the imposition of reasonable planning conditions and obligations. These relate to:

- detailed junction arrangements on St. Johns Rd and Jaywick

Lane;

- cycleway/footway across St. Johns Rd and Jaywick Lane frontages;
- bus services to be routed through the development;
- residential travel plans;
- improvements at existing St. John's Rd/Jaywick Lane junction;
- signals at the Bockings Elm junction of St. John's Rd and Cloes Lane;
- improvements to St. Johns Rd/Peter Bruff Avenue junction;
- improvements at St. John's roundabout;
- road safety assessments to be completed for all the above measures;
- no discharge of surface water onto the highway;
- wheel cleaning facilities; and
- car parking spaces and garages.

[The revised letter from the Highway Authority recommends conditions and obligations relating to the following:

- **The need for a construction management plan;**
- **The new junction onto St. John's Road – to be delivered prior to first occupation of Phase 1;**
- **The new junction onto Jaywick Lane – to be delivered prior to occupation of phase 2A, 3 or 4;**
- **The completion of the St. John's Road to Jaywick Lane link road – to be completed prior to occupation of phase 3 or 4;**
- **The completion of a cycleway/footway along Jaywick Lane frontage prior to phase SA, 3 or 4;**
- **Improvements to St. John's Road/Jaywick Lane and St. Johns Road/Cloes Lane junctions – to be delivered prior to occupation of 250 dwellings;**
- **Improvements to St. Johns Road/Peter Bruff Avenue junction and the St. John's Roundabout – to be delivered prior to occupation of 500 dwellings;**
- **Improvements to existing bus stops in St. John's Road and provision of pedestrian access to those stops;**
- **Provision of a high quality bus service through the development via the link road or £500,000 contribution towards its delivery (as being secured the s106 agreement);**
- **Provision of a pedestrian link between the proposed primary school and neighbourhood centre in advance of the link road being completed; and**
- **Residential travel plan and residential travel pack.]**

Essex Police

The published documents have been studied and do not provide sufficient detail to allow an informed decision to be made as to whether the appropriate consideration of Sections 58 & 69 of the National Planning Policy Framework (NPPF) has been achieved. In supporting the ethos of Sections 58 & 69 of the NPPF, Essex Police

provide a free, impartial advice service to any applicant who request this service.

[Note: This level of detail would be required at Reserved Matters Stage]

Historic England

On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

Natural England

Initial response was that based on the information provided in support of the application, there was insufficient information to allow likely significant effects to the Essex Estuaries Special Area of Conservation (SAC) and the Colne Estuary SPA and Ramsar site to be ruled out. They also considered that there was insufficient information to rule out adverse effects to the Colne Estuary Site of Special Scientific Interest (SSSI) and therefore requested that additional information was provided by the applicant. Suggestions for resolving the issue include on-site and off-site mitigation such as:

- High-quality, informal, semi-natural areas;
- Circular dog walking routes of >2.7 km² and/or with links to surrounding public rights of way (PRoW);
- Dedicated 'dogs-off-lead' areas;
- Signage/leaflets to householders to promote these areas for recreation;
- Dog waste bins etc; and
- Developer contributions towards the implementation of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) in respect of the Colne Estuary.

[Note: In response, the applicant has contacted Natural England and has agreed that such measures being secured through conditions or through the s106 legal agreement].

NHS England

The proposed development is likely to have an impact on the services of 3 branch surgeries operating within the vicinity of the application site. The GP practices do not have capacity for the additional growth resulting from this development and cumulative development in the area. Therefore, the proposed development will likely have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development.

NHS England has no objection in principle to the proposed development, subject to appropriate mitigation being secured for Primary Healthcare. However, it must be made clear that at the present time there is no agreement in place between the applicant and NHS England or the GP Practices, that the new proposed health facility will be utilised by an NHS England funded GP Practice. NB. any project proposed by a GP Practice is subject to CCG agreement and NHS England prioritisation and approval processes.

[Note: In further correspondence, NHS England has indicated that its preference is for a financial contribution of £329,613 to be secured through s106 legal agreement].

5. Representations

5.1 Five letters of representation have been received by the Council, four of the authors of which object to the proposal with one making neutral comments about the scheme. The letters of objection raise the following concerns:

- Green space and farmland are being eroded more and more.
- The land is used to feed local people, is well used by the surrounding community, has community value and is teeming with wildlife.
- This will have a completely negative impact on residents' way of life, including from the construction process.
- The council should pass smaller developments that won't destroy a whole area of beauty instead of trying to build a monstrosity.
- When this development was first mooted it was for approximately 800 properties, now it is 950. It will add more vehicles to the already very busy St Johns Road and Jaywick Lane and will lead to more congestion on both.
- Jaywick Lane is already a really dangerous and often congested road, there is not sufficient infrastructure to this development, it will just cause gridlock in the area.
- There is already excessive traffic and issues with speeding.
- No street lights, making it difficult and dangerous to cross the road.
- At present the town is unable to recruit GP's, therefore most are locums and question how the health centre would be staffed.
- Question who will occupy the social housing aspect of this development.
- Question whether Clacton can really sustain all new developments in terms of available jobs and infrastructure.
- Whilst there are plans for a school and community area, where are these people going to work, or will they just be the local unemployed.
- Will the train line be improved to allow people to commute to bring back some money to the area or will they just be another drain on the Council.
- The school would back onto the garden of 40 Jaywick Lane, Persimmon's solution to leave an alleyway behind the fence which would make the occupants more vulnerable who are elderly and suffering with ill health.
- Noise from the proposed school and possible financial implications if adjacent occupiers have to put up a stronger fence.
- The Frinton Residents' Association object to the proposal on the grounds of what they have experienced during and after the construction of 37 units at Witton Wood Road, Frinton by the applicant, as opposed to raising points that are specific to the proposal before Members. They do however stress the importance of ensuring that the development is of a high quality, as well as being sustainable and protecting the living conditions of existing residents.

5.2 The letter of comment received states that whilst, as a walker they welcome any additional Public Rights of Way (PROW), they have concerns that without the potential footway links in place, lack of use could result in the planned leisure routes becoming overgrown. They assume ECC will be responsible for maintaining these new routes, and it is necessary to mention that to get a path included on their cutting programme is not easy, and takes a number of complaints to do so. They also notice that the footway link to the west of the plan, does not link up with a PROW, but a private track. For this to be used it would need the landowners consent to make the track a permissive right of way. They also state that the footway link onto St. Johns road would require walkers to cross the busy B1027 to gain access to the footpath on the opposite side of the road. This would however allow access to the PROW network.

6. Assessment

Site Context

- 6.1 The application site comprises 42.13 hectares of predominantly arable agricultural land that is situated to the western side of Clacton on Sea, north of Jaywick. The northern boundary of the site is demarcated by St John's Road (B1027) and is punctuated by the curtilages of existing dwellings at 717, 719, 755 & 757 St John's Road. On the opposite side of St John's Road, to the north east is a grade II listed building known as Duchess Farmhouse.
- 6.2 To the west of the site is Rouses Lane which is demarcated by field hedging for part of its length and leads to Rouses Farm (outside of the application site) and the track of Botany Lane, beyond this boundary is open farmland. The southern boundary of the proposed developable area is formed by a metalled farm track which leads to Jaywick Lane, almost opposite the Tendring Education Centre. Beyond the farm track is more farmland, the southern point of which just touches the start of the built-up area of Jaywick (adjacent to the Sackett's Grove caravan site). The majority of the eastern boundary is formed by either Jaywick Lane itself or the rear of properties that front it, and include a new development of bungalows at 82 Jaywick Lane and the Chester and Silver Dawn Caravan Parks within the Bockings Elm Ward.
- 6.3 The site is relatively flat, but does slope slightly towards the south. Where a lack of hedging allows, views across the site are quite open, from one boundary to another, bar where existing buildings are located.
- 6.4 Bockings Elm benefits from a range of existing local services which include a post office, hairdresser, public house, fish and chip shop, and grocery stores. Nearby community facilities include the Coppins Hall community centre, and schools currently include an early-years playgroup, the Raven Academy primary school, and Clacton Coastal Academy which provides secondary and sixth form education. The aforementioned Tendring Education Centre incorporates early years settings, the West Clacton Library, and sporting facilities. The nearest Doctors Surgery is currently the Green Elms Health Centre located in Nayland Drive.
- 6.5 The application site is also served by several buses which run via St Johns Road. These include FirstGroup routes 17 and 18 between Clacton and Point Clear (combined half-hourly service Monday – Saturday daytimes, hourly Monday – Saturday evenings and Sundays), and FirstGroup route 74 between Clacton and Colchester (hourly Monday – Saturday daytimes, two-hourly Monday – Saturday evenings and Sundays). The Go Ride 72 and 79 routes also operate along Jaywick Lane and connect the site to Colchester and Brightlingsea respectively.

The Proposal

- 6.6 Outline planning permission is sought for the redevelopment (including demolition) of the site for up to 950 residential units (including affordable housing) with a new Neighbourhood Centre comprising a local healthcare facility of up to 1500sqm NIA and up to 700sqm GFA for use classes A1 (shops), A3 (food and drink) and/or D1 (community centre); a 2.1ha site for a new primary school; and associated roads, open space, drainage, landscaping and other associated infrastructure.
- 6.7 The application is accompanied by an Environmental Statement (ES), produced pursuant to the Town & Country Planning (Environmental Impact Assessment) (England and Wales Regulations) (2011) and which follows the issue of a Scoping Opinion (SO) by the District Council on 9 April 2015 under reference 15/30060/PREAPP). The SO concluded that the following issues should be covered, and which have been included as chapters within the

ES: Landscape & Visual; Ecology and Nature Conservation; Archaeology and Cultural Heritage; Transport & Access; Air Quality; Noise & Vibration; Soils and Agriculture; Hydrology, Flood Risk & Drainage; Ground Conditions and Contamination; and Socio-economics.

6.8 The ES is supported by a number of technical appendices, these include:

- Arboricultural Impact Assessment and Tree Schedule;
- Archaeological Desk Based Assessment;
- Archaeological Geophysical Survey;
- Built Heritage Statement;
- Drainage Strategy and Calculations;
- Extended Phase 1 Habitat Survey;
- Habitat Regulations Assessment Screening Report;
- Phase 2 Ecological Surveys and Assessments;
- Flood Risk Assessment;
- Geo-Environmental Desk Study Report; and
- Geo-Environmental and Geotechnical Desk Study and Site Investigation.

A Non-Technical Summary of the ES has also been provided.

6.9 In addition to the ES, a detailed suite of documentation and revised technical evidence during the processing period has been submitted with the planning application, including the following:

- Application Forms & Certificates;
- Application Plans comprising:
 - Location Plan;
 - Master Plan;
 - Access and Movement Parameter Plan;
 - Building Heights Parameter Plan;
 - Density Parameter Plan;
 - Land Use Parameter Plan;
 - Open Space Parameter Plan;
 - Phasing Parameter Plan;
 - Northern Access onto St John's Road;
 - Eastern Access onto Jaywick Lane; and
 - Topographical Land Surveys;
- Construction Method Statement;
- Design & Access Statement;
- Education Checklist;
- Existing Utilities Report;
- Minerals Assessment Report;
- Planning Statement;
- Statement of Community Involvement;
- Transport Assessment ;
- Travel Plan;
- Viability Assessment [confidential].

6.10 With the exception of the formation of the access into the site, details of the appearance, landscaping, layout and scale are all reserved matters which means that approval is not sought for these at this stage and details are therefore not currently required. If the outline application were to be granted the applicant, or any successors in title, would need to submit reserved matters applications to the Local Planning Authority, in addition to discharging planning conditions before development could commence.

- 6.11 The application proposes two vehicular access points into the site, one onto St John's Road, to the east of no 755, the other opposite the Tendring Education Centre onto Jaywick Lane. Both these junctions would have dedicated right turn, signalised junctions and as illustrated on the submitted Masterplan and Access and Movement Parameter Plans, these would connect up through a central spine road which would be designed to accommodate bus services and a central cycle route through the scheme. The spine road would therefore connect the proposed new dwellings and the surrounding area to the proposed neighbourhood centre and primary school, as well as allowing local traffic to bypass Jaywick Lane.
- 6.12 The Access and Movement Parameter Plan also identifies indicative secondary roads as well as footpaths throughout the site, with the Design and Access Statement (DAS) which has been updated during the processing of the planning application to add further detail to the design approach and to give a clearer vision for the road hierarchy. The exact location of the routes through the site would be refined through the Reserved Matters process, although the applicants opine that the information provided with the submission demonstrates that it is possible to deliver a well-connected site.
- 6.13 Whilst a reserved matter, the indicative Masterplan and Land Use Parameter Plan identify the potential layout of the site, which is intended to give some certainty to the general location of development and ultimately be used to inform the Reserved Matters stage/s. This would be a predominantly housing-led scheme for up to 950 units and whilst the precise mix of dwelling types is unknown, the applicants state that they intend to provide a broad range of residential accommodation ranging from one bedroom apartments to five bedroom houses. It is also intended that the scheme would include an element of bungalow accommodation with the precise amount to be a matter for the detailed design stage. To accord with the emerging plan, an appropriate proportion of dwellings would be provided as affordable housing.
- 6.14 Housing density across the scheme would average at approximately 40 dwellings/Ha (net) or 23 dwellings per hectare (gross). Density would however vary through the scheme to create differing character areas eg. It is envisaged that densities would generally be lower around the edges of the scheme and higher towards the core and around key focal points within the development. The DAS highlights that it is intended that the development would be of a style based on the local vernacular, and that the principles of the Essex Design Guide would be followed.
- 6.15 The primary school site is shown to be located on a 2.1 Hectare (Ha) parcel of land to the north and close to the St John's Road access point which would allow it to be delivered early in the development process, and also means that it would not be surrounded by construction activity once operational. It would also ensure that it is close to the existing community that it would also serve.
- 6.16 The Neighbourhood Centre would include the healthcare facility and would be located towards the Jaywick Lane access (to south of) to ensure that it could also serve the wider community as well as the development site. Again, its proximity to the site access also means that it would not be surrounded by construction activity when operational.
- 6.17 A minimum 20m landscape buffer is identified along the western boundary of the site to comply with the emerging Local Plan's policies for this site and form a suitable transition between the built development and surrounding countryside. A large area of open space is indicated at the southern end of the site, and which complements the proposed Strategic Green Gap allocation between Clacton and Jaywick. Further landscape buffers are proposed to be located around the sensitive boundaries of the site, as well as smaller pockets of Public Open Space (POS), two of which would include Local Equipped Areas for

Play (LEAP). In total, POS would amount to some 13 Ha, including surface water attenuation areas.

Main Planning Considerations

6.18 The main planning considerations are:

- Principle of Development;
- Environmental Impact, incorporating the following:
 - Landscape & Visual Impact;
 - Ecology and Nature Conservation;
 - Heritage;
 - Archaeology
 - Transport & Access;
 - Air Quality;
 - Noise & Vibration;
 - Soils and Agriculture;
 - Hydrology, Flood Risk & Drainage;
 - Ground Conditions and Contamination; and
 - Socio-economics;
- Planning Obligations and Viability;
- Reserved Matters - Appearance, Landscaping, Layout and Scale; and
- Living Conditions.

Principle of Development

6.19 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a significant material consideration in this regard.

6.20 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 215 [**now 213**] of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 [**now 48**] of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

6.21 Section 1 of the Local Plan was examined in January and May 2018 with the Inspector's report awaited and whilst its policies cannot yet carry the full weight of adopted policy, they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan is expected to take place in Autumn 2018. Where emerging policies are particularly relevant to a planning application and can be given weight in line with the principles set out in paragraph 216 [**now 48**] of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan. **[We have now received the Inspector's letters in respect of Section 1 which confirm the soundness of Tendring's housing figures, but which raise concerns about Garden Communities which will delay the progress of the Local Plan towards adoption].**

6.22 The application site is not allocated for development in the adopted Local Plan and it lies outside (albeit within a short distance of) the 'settlement development boundary' for Clacton. The southern part of the site immediately south of existing properties in Jaywick Lane is designated as a 'Local Green Gap' which, for this area, is designed primarily to

maintain clear separation between West Clacton and Jaywick to safeguard their separate identities and character, and to also protect views from these areas over the open countryside.

- 6.23 In the emerging Local Plan, the site is specifically allocated through Policy SAMU4 for a mix of residential development, community facilities and public open space. The Local Green Gap/Strategic Green Gap designation has been scaled back in the emerging Local Plan in response to longer-term development needs and to both reflect the extent of development that has already taken place on the eastern side of Jaywick Lane (i.e. housing at Harpers Way and the School); and focus protection on the open land south of the school and between Jaywick and Cherry Tree Avenue.
- 6.24 Policy SAMU4 states: *“Land at Rouses Farm, west of Jaywick Lane and south of St. John’s Road, Clacton-on-Sea, as defined on Map SAMU4, is allocated for a mix of residential development, community facilities and public open space”*. The policy then sets out specific requirements of the development and criteria that need to be met through any planning applications for the site:
- Requirement a) is that the development will include at least 850 homes of mixed sizes and types to include affordable housing as per the Council’s requirements up to 2033 and features to support a range of housing sizes and types to reflect the needs of the area requirements. The proposal is for up to 950 dwellings thus exceeding the minimum requirement. At this level, the development provides more than sufficient scope to deliver a mix of sizes and types which will be determined, in more detail, at the reserved matters stage(s);
 - Requirement b) is for a new primary school with co-located 56 place early years and childcare facility (D1) use on 2.1 hectares of land as required by the Local Education Authority through Section 106 Planning Obligations. The application makes provision for this requirement and the applicant has liaised directly with Essex County Council in its capacity as the local education authority to determine where and how this will be delivered;
 - Requirement c) is for the development to provide a new neighbourhood centre. Accordingly, the application description includes a new neighbourhood centre comprising a local healthcare facility of up to 1500 sqm NIA (Net Internal Area) and up to 700 sqm GFA (Gross Floor Area) for use classes A1 (shops), A3 (food and drink) and/or D1 (community centre). The indicative masterplan shows the location of this at the Jaywick Lane end of the site;
 - Requirement d) is for a site for a new healthcare facility to meet the primary health care needs of the growing population in West Clacton. In its representations on the Local Plan, the NHS asked for Criterion d) to be modified to allow for either new infrastructure or a financial contribution and has indicated that it is a financial contribution of just under £330,000 that will be required;
 - Requirement e) of Policy SAMU4 is for minimum of 5 hectares of public open space and this is to be provided within the development, predominately at the southern end of the site to help maintain and strengthen the sense of openness between Jaywick and West Clacton;
 - Criterion f) in Policy SAMU4 advocates a master-planned approach which the applicant has followed within the material in support of the application;
 - Requirement g) is for the principal points of vehicular access to be off St. John’s Road in the north and Jaywick Lane in the south;

- Requirement h) is for the design and layout of the development to have regard to the surrounding landscape, seeking to minimise visual impacts through the inclusion of mitigation measures to developer links with the existing landscape and access features. A minimum 20 metre landscaping buffer along the western edge of site is required to minimise visual impacts. The application allows for this requirement and is supported by a Landscape and Visual Impact Assessment with proposed mitigation measures (see below);
- Requirement i) is for a spine road of 6.75 metres carriageway width to link St. John's Road and Jaywick Lane capable of accommodating buses and other large vehicles and enabling traffic calming measures or access restrictions to be implemented in Jaywick Lane to the benefit of existing residents in the area;
- Requirement j) is for the incorporation of highway capacity, safety, public transport, cycle, pedestrians and bridleways service and/or infrastructure enhancements. It requires a safe cycle path/footpath between the development and the Clacton Coastal Academy and the new primary school;
- Requirement k) is for a financial contribution to early years and childcare and secondary education provision, as required by the Local Education Authority through Section 106 Planning Obligations;
- Requirement l) is the delivery of opportunities for the protection and enhancement of the historic environment features and settings including the built and archaeological environment; and
- Requirement m) is for early engagement with Anglian Water to secure upgrades to both treatment infrastructure and network and to formulate a water and drainage strategy to serve the new development.

6.25 The application complies with the broad and strategic requirements of Policy SAMU4 and the more up-to-date specific and detailed requirements of Essex County Council and the NHS. The detail of how the proposal complies with Policy SAMU4 and other Local Plan policies is set out under the key considerations below.

6.26 The allocation of this site for residential and mixed use development in the Publication Draft of the emerging Local Plan and the requirements of Policy SAMU4 did not attract many objections from residents or any other stakeholders. The only comments raised came from:

- Essex County Council who asked that the housing numbers in the policy be double checked for consistency with other sections of the plan;
- Historic England who wanted to ensure that the separate characters of Jaywick and Clacton are maintained; and that the Grade II Duchess Farmhouse in St. John's Road is properly taken into account;
- NHS England who suggested that the healthcare requirements could be met either through a new facility on the site or through a financial contribution towards healthcare capacity in the wider area;
- Natural England who wanted to ensure the value of the land for wintering birds and the potential impact on water quality are properly assessed and that appropriate mitigation measures are put in place;

- Persimmon Homes who, as the developer for this project, supported the allocation and the policy; and
- Land Logic Ltd who objected to the proposal on landscape, visual and infrastructure grounds, because they are promoting an alternative site off London Road, Clacton in the middle of the Strategic Green Gap between Clacton and Little Clacton for 220 homes.

6.27 There were no specific objections or comments from residents in response to the allocation at the publication stage, however this location has been proposed for development in numerous iterations of the Local Plan as it has emerged and the site promoters have undertaken ongoing community consultation in the area. They have also been engaged in extensive pre-application discussions with the Council with a view to ensuring all relevant planning matters have been properly considered and, where possible, local concerns have been addressed. Four local objections have been received in response to this planning application specifically (summarised above) and these are addressed throughout this report.

6.28 In applying the guidance within paragraph 216 [**now 48**] of the NPPF, the Local Plan has reached an advanced stage of the plan-making process; the objections to Policy SAMU4 are relatively few and have all been resolved by the applicants; and the proposal is entirely in line with the policies in the NPPF to boost the supply of housing and achieve a balance between economic, social and environmental factors. On this assessment, Policy SAMU4 and the allocation of land at Rouses Farm for mixed-use development can carry a reasonably high level of weight in the determination of this planning application.

6.29 Furthermore, the Council's ability to demonstrate an ongoing five year supply of deliverable housing sites, in line with paragraph 47 [**now 73**] of the NPPF relies on some of the sites allocated for development in the emerging Local Plan obtaining outline planning permission in the short-term, in order for them to progress to the detailed planning stages and to start delivering new homes from the middle part of the plan period. In fact, the Council's evidence to demonstrate a five year supply relies on the housing trajectory contained within its very latest Strategic Housing Land Availability Assessment' (SHLAA) (April 2018) which anticipates the grant of outline planning permission in 2017/18, the approval of reserved matters in 2018/19, the discharge of pre-commencement planning conditions and commencement of development in 2019/20 with the first new houses in 2020/21. The Rouses Farm development is currently expected to contribute around 90 new homes to the five-year supply between 2020/21 and 2022/23 and between 30 and 60 new homes, per year, from 2023/24.

6.30 Having considered the application site's status within the adopted and emerging Local Plans, the limited level of objection received during the Local Plan consultation and the imperative to deliver new homes and to maintain a five-year supply of deliverable housing sites, Officers consider that the principle of a major residential and mixed-use development on the site is acceptable – subject to consideration against other relevant policies, including Policy SAMU4. Officers have therefore sought to work with the developer to address any planning issues and to work positively towards a recommendation of approval.

Environmental Impact

Landscape & Visual Impact

6.31 NPPF para. 109 [**now 170**] stipulates that the planning system should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes. The Planning Practice Guidance (PPG) states where appropriate, Landscape Character Assessments should be prepared to complement

Natural England's National Character Area profiles. Landscape Character Assessment is a tool to help understand the character and local distinctiveness of the landscape and identify the features that give it a sense of place.

- 6.32 In response to this, the applicant has submitted a Landscape and Visual Impact Assessment (LVIA) which highlights that the application site is situated in the St Osyth Coastal Ridge Landscape Character Area (LCA) and is on relatively high land overlooking the St Osyth Coastal Slopes and the St Osyth Drained Marshes LCAs. In this respect the development of the land has the potential to cause harm to a wider landscape area, although the site is not covered by any specific landscape designation and the Principal Tree and Landscape Officer states that the information submitted in support of the application provides a genuine and accurate description of the landscape and visual effects.
- 6.33 The application site comprises relatively flat agricultural land with limited landscape features within the site boundaries which some include mature and established hedgerows; and a light scattering of tree groups. As it lies on the western urban edge of Clacton, existing residential development is situated along the majority of the eastern boundary. In addition, there are three residential properties located adjacent to the site's northern boundary, with a ribbon of development on the opposite side of St. John's Road. The locality is therefore already partly residential in character.
- 6.34 Quite clearly, the proposed development would see a permanent change of land use (and therefore character) from farmland to residential, and would inevitably result in a permanent significant effect upon the landscape. However, whilst only in outline, the planning application demonstrates that the scheme could be designed to minimise landscape and visual effects, through the creation of a positively designed western settlement edge to Clacton. As part of the landscape design it is proposed that existing trees and hedgerows on the site boundary would be retained and enhanced by new native planting and a substantial landscape buffer to the western boundary created.
- 6.35 The Tree and Landscape Officer confirms that the largest specimen trees are situated on the northernmost part of the land, and in order to assess the impact of the development on trees and other vegetation on the application site and on adjacent land the applicant has submitted a tree report and survey. This information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction.
- 6.36 As highlighted above, requirement h) of Policy SAMU4 is for the design and layout of the development to have regard to the surrounding landscape, seeking to minimise visual impacts through the inclusion of mitigation measures to developer links with the existing landscape and access features. A minimum 20 metre landscaping buffer along the western edge of site is required to minimise visual impacts and the application allows for this requirement and would ensure that the boundary trees and hedgerows can be retained for the long term.
- 6.37 Therefore, it is considered that the proposal would not give rise to significant adverse effects upon the surrounding landscape, subject to the mitigation measures proposed which could be secured through the submission of reserved matters and the imposition of appropriate conditions.

Ecology and Nature Conservation

- 6.38 One aim of sustainable development should be to conserve and enhance the habitats and species on site. This is reflected within NPPF paragraph 109 [now 170] which recognises that the planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;
 - recognising the wider benefits of ecosystem services;
 - minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
 - preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and
 - remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.
- 6.39 The PPG highlights that section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by government in its Biodiversity 2020 strategy.
- 6.40 With respect to Green infrastructure, the PPG defines this as a network of multifunctional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities. Green infrastructure is not simply an alternative description for conventional open space. As a network it includes parks, open spaces, playing fields, woodlands, but also street trees, allotments and private gardens. It can also include streams, canals and other water bodies and features such as green roofs and walls.
- 6.41 The ES states that the site predominantly comprises of agricultural habitats bordered by species-poor native hedgerows that support a range of protected species including breeding birds and reptiles. The site is located close to the coast and within 5km of two sensitive ecological sites. The indirect effects of the Proposed Development arising from increased human disturbance pressures on the nearby coastal European designated sites have been considered and suitable alternative natural green space is to be provided within the proposed development to reduce recreational pressure on the designated sites.
- 6.42 A habitat management plan would be implemented to maintain habitat quality for breeding birds, reptiles, notable mammals and invertebrates and reduce human disturbance on these features. This would enhance boundary and grassland habitats within the site, with the proposed development being designed with a range of mitigation and enhancement measures to ensure no net loss of biodiversity and no significant adverse significant effects on ecology features. The implementation of habitat management would ensure that for some features there are a range of net benefits for biodiversity in line with national planning policy.
- 6.43 Natural England has stipulated that based on the information originally provided in support of the application, their view was that there was insufficient information to allow likely significant effects to the Essex Estuaries Special Area of Conservation (SAC) and the Colne Estuary SPA and Ramsar site to be ruled out. They also considered that there was insufficient information to rule out adverse effects to the Colne Estuary Site of Special Scientific Interest (SSSI). Their advice was given in respect of the Conservation of Habitats & Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended).
- 6.44 Natural England welcome that the Project Habitats Regulations Assessment (HRA) submitted in support of the development proposal acknowledges the impact pathway of increased recreational pressure on coastal designated sites in Essex, including the Colne

Estuary. This is as a result of increased recreational use by residents of new development within walking or driving distance of them. They note that the proposed 13 ha of green space “will provide adequately for the increased recreational pressure and no further mitigation will be required” (as set out within the Project HRA).

- 6.45 Natural England’s current advice is that the mitigation of such impacts requires more than one type of approach, typically involving a combination of ‘on-site’ informal open space provision and promotion (i.e. in and around the development site) and ‘off-site’ visitor access management measures (i.e. at the designated site(s) likely to be affected).
- 6.46 In response to this, the applicant has provided a further commentary upon the points raised in the Natural England letter, and state that they concur with the need to provide Suitable Alternative Natural Green Space (SANGS) on the site. The landscape scheme at the Reserved Matters stage would include the following: An area of Public Open Space (POS) of 13ha, of which 10.7ha (64%) would be specifically designed to meet Natural England’s SANGS criteria, including a single large block of 4.5ha in the southern section with a central open water/wetland feature, and 6.7ha of linear park long sections of the west, northwest and eastern site perimeters.
- 6.47 A total of 5.15km of paths would be created on the site, including a 4.4km coherent circular route, with a subsidiary 750m linking arc to take in the eastern linear park area. Of these paths 3.1km would be within the dedicated SANGS POS, of which 1.35km would be around the southern park, focused on the large water feature. Paths in the northern perimeter linear park would focus on the two water features to be created there. All these paths would link directly to existing Public Rights of Way (PRoW) adjacent to the site.
- 6.48 The applicant suggests that the following measures to promote on site recreational activity are set out within a suitably worded planning condition:
- High-quality, informal, semi-natural areas;
 - Circular dog walking routes of >2.7 km² and/or with links to surrounding public rights of way (PRoW);
 - Dedicated ‘dogs-off-lead’ areas;
 - Signage/leaflets to householders to promote these areas for recreation; and
 - Dog waste bins and regular management of these facilities.

Comments on this information from Natural England are yet to be received, an update will be provided at Planning Committee.

- 6.49 However, whilst these measures fulfil Natural England’s advice for on-site mitigation, they also state that the unique draw of designated sites such as those identified above means that, even when well-designed, ‘onsite’ provisions are unlikely to fully mitigate impacts. They therefore advise that consideration of ‘off-site’ measures is also required as part of the mitigation package for predicted recreational disturbance impacts.
- 6.50 Natural England highlight that the Council’s emerging Local Plan HRA includes a commitment to a cross-authority solution to delivering such ‘off site’ measures at the strategic level. Once adopted, this emerging strategy – the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) – will specify requirements for developer contributions to an agreed and costed scheme of ‘offsite’ measures to help avoid and mitigate recreational disturbance impacts to designated sites. For other similar strategies, such measures have included visitor engagement (e.g. wardening, responsible dog owner projects etc.), visitor access management (e.g. screening of sensitive areas using tree planting, fencing, hides etc.) and visitor education/ information (e.g. footpath way markers, information boards, SPA discs etc.). The Essex Coast RAMS is set to be adopted in Autumn 2018; in the interim period, they advise that the Project HRA should investigate

how the development fits with the emerging RAMS and whether or not a proportionate financial contribution can be secured in line with the project. They state that at this outline stage it may be possible to secure full adherence with the emerging RAMS at the reserved matters stage via a suitably worded planning condition.

- 6.51 In response to this the applicants state that whilst they note that the Essex RAMS is currently scheduled to be published in October 2018, in the interim, Natural England advises that a solution which has been agreed with TDC for other residential developments coming forward ahead of the Essex Coast RAMS and at the outline stage, for example 17/02162/OUT - Land to The South of Thorpe Road Weeley and 17/02168/OUT – Land west of Low Road, Dovercourt (both to be determined) is to secure full adherence with the emerging RAMS via a suitably worded planning condition; this is then to be agreed with TDC, including the necessary financial contribution at the Reserved Matters stage. For the purposes of their viability assessment they propose to assume a figure of £100 per unit (£95,000) for a RAMS payment. It is proposed to secure this contribution as part of the legal agreement.
- 6.52 In respect of habitats, Natural England state that as identified through the emerging Local Plan HRA, this allocation at Rouses Farm has ‘moderate’ potential to be used as an off-site SPA habitat (also known as ‘functionally linked land’ (FLL)) for golden plover and lapwing. As such, the Plan HRA required that wintering bird surveys be carried out to as part of the ecological surveys to further determine potential importance for golden plover and lapwing and inform any necessary mitigation proposals. They note from the Environmental Statement that wintering bird surveys were undertaken with the conclusions as follows: “No species of bird which is listed as a qualifying feature of the Colne Estuary SPA was recorded. Despite the limitation placed by the late dates of the two surveys, there is nothing to suggest that SPA species are likely to use the Application Site earlier in the winter. There are also no records in The Essex Bird Reports (2010 and 2012) suggesting this area is used by SPA species”. On this basis, they have no objections in this respect.
- 6.53 With regard to water quality, Natural England state that as identified through the emerging Plan HRA, this allocation could also potentially lead to significant adverse effects on designated sites through changes in water quality The Plan HRA highlighted that Anglian Water have previously identified that there is insufficient capacity at some of the Water Recycling Centres (WRCs) in Tendring to accommodate growth proposed within the emerging Local Plan. Some of these WRCs (including Jaywick which is the closest to the proposed development) are linked to the Colne Estuary and so adequate wastewater infrastructure must be provided in time to serve proposed development in order to ensure protection of the environment in this regard and avoid potential impacts to designated sites. They therefore advise that the advice of Anglian Water is followed and that the condition requested in their consultation response is secured.
- 6.54 Therefore, in conclusion on this issue, it is considered that the proposal would not give rise to significant adverse effects upon ecology and nature conservation subject to the mitigation measures proposed which could be secured through the submission of reserved matters and the imposition of appropriate conditions.

Heritage

- 6.55 Protecting and enhancing the historic environment is an important component of the NPPF’s drive to achieve sustainable development, and the appropriate conservation of heritage assets forms one of the ‘Core Planning Principles’ that underpin the planning system. Paragraph 127 [now 189] of the NPPF states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. NPPF para. 129 goes on to say that local planning authorities should identify and assess the particular significance of

any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

- 6.56 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 stipulates that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 6.57 There is one listed building in proximity to the application site, which is Duchess Farmhouse, a grade II listed building which is located diagonally opposite the north eastern-most part of the site, on the other side of St John's Road. The listed building is set well back from the road with mature evergreen boundary hedging intervening. Further, whilst only indicative, the section of the site closest to the listed building comprises a modestly sized paddock, identified as parcel R9 on the Masterplan and separated by the main residential development by the proposed Primary School. Consequently, it is considered that the setting of this designated heritage asset would not be harmed by the proposal.

Archaeology

- 6.58 In terms of Archaeology, the desk based assessment (DBA) highlights the moderate to high potential for the site contain archaeological remains of local to regional significance, however it fails to consider the significance of the finding of excavations at Lodge Farm close by to the west which took place over a number of years ahead of mineral extraction. Cropmarks of a potential cursus lie within the study area which forms part of the cropmark complex identified at Lodge Farm. Excavation at Lodge Farm revealed a large Neolithic causewayed enclosure of three roughly concentric circuits of discontinuous ditches. Within the interior of the monument were Neolithic pits, a pond barrow, Middle Bronze Age ring-ditches and Early and Middle Bronze Age cremations. A middle Iron Age enclosed settlement consisting of roundhouses, granaries and other post-built structures was also uncovered (EHER18332). This would likely be considered 'of schedulable quality' had the site not been quarried. The proposed development site clearly sits within this same extensive prehistoric landscape and has recorded cropmark evidence for a number of barrows of probable Bronze Age date.
- 6.59 The Environmental Statement submitted in support of the application contains a number of statements within the Archaeology and Cultural Heritage Chapter which do not correspond or concur with the results of the archaeological desk based assessment and geophysics survey which have been carried out as initial evaluation methods in support of the application. As a result of this Essex County Council Archaeology are of the view that the Environmental Statement is inaccurate in places and fails to adequately establish the significance of the known heritage assets and in line with the NPPF further evaluation is required to determine the significance of the know heritage assets and the work carried out so far has failed to establish this. On similar sites to this a programme of rectification of aerial photos and targeted trial trenching would normally be considered an appropriate evaluation method.
- 6.60 The comments of Essex County Council Archaeology and this information would normally be required in advance of a planning decision, but given that this is an outline condition with all matters reserved apart from access, it is considered reasonable for this information to be required as part of the reserved matters application.

Transport & Access

- 6.61 Where concerning the promotion of sustainable transport, the NPPF in para. 29 states that the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Para. 32 **[now 111]** of the NPPF stipulates that all development that could generate significant amounts of vehicle movements should be supported by a Transport Assessment to ensure, amongst other things, that suitable access to the site can be achieved and that opportunities for sustainable transport modes are explored to reduce the need for major transport infrastructure. Development should only be prevented where the residual cumulative impacts are likely to be severe. Furthermore, the NPPF in para. 34 **[now 103]** seeks to ensure that developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in the Framework, particularly in rural areas.
- 6.62 On this subject, the PPG goes into more detail into the overarching principles on Transport Assessments, with Requirement j) of Policy SAMU4 being for the incorporation of highway capacity, safety, public transport, cycle, pedestrians and bridleways service and/or infrastructure enhancements. It also requires a safe cycle path/footpath between the development and the Clacton Coastal Academy and the new primary school. In addition, SAMU4 Requirement i) is for a spine road of 6.75 metres carriageway width to link St. John's Road and Jaywick Lane capable of accommodating buses and other large vehicles and enabling traffic calming measures or access restrictions to be implemented in Jaywick Lane to the benefit of existing residents in the area.
- 6.63 A full audit of the highway network surrounding the application site has been undertaken by the applicant to identify land uses and locations that should be considered as sensitive receptors. These include Clacton Coastal College and children's nursery, the congested junctions of St John's Road/A133 and St John's Road/Cloes Lane, the residential properties fronting St John's Road, Jaywick Lane and Little Clacton Road. An assessment of both the construction and operational phases of the proposed development has been undertaken. During the construction phase the following effects were identified:
- Construction traffic - increase in traffic and proportion of HGVs leading to fear and intimidation and driver delay, although this is not likely to be significant.
- 6.64 During the operational phase the following effects were identified:
- Severance – likely to increase on St John's Road and Jaywick Lane, particularly near the site accesses. Pedestrian crossing facilities are proposed to be incorporated in the site access junction on St John's Road. On Jaywick Lane, near the site access, there is no footway on the opposite side of the road so little demand for pedestrians to cross (negligible);
 - Driver delay – likely to increase at the junctions of St John's Road/Jaywick Lane, St John's Road/Cloes Lane and St John's Road/A133 (significant);
 - Pedestrian amenity and delay – no roads experience a significant reduction in amenity or increase in delay (negligible);
 - Fear and intimidation – the proportion of HGVs in the operation phase is unlikely to rise and traffic flow increases are generally below 30%. Roads considered have been observed to have low pedestrian flows and crossing demand (negligible);

- Accidents and safety – no particular accident pattern has been identified across the highway network and, therefore, accidents are unlikely to increase (not significant). Several mitigation measures have been identified to address any potentially significant traffic related effects resulting from the increased traffic flow associated with the Proposed Development. These mitigation measures include:

- Provision of new traffic signals junctions at the site access, incorporating pedestrian crossing facilities on St John's Road (minor beneficial);
- Provision of high quality pedestrian and cycling links throughout the site and connecting to the surrounding highway network (minor beneficial);
- Site layout designed to accommodate buses – minor beneficial;
- Implementation of a Construction Traffic Management Plan (minor adverse);
- Improvements to St John's Road/Jaywick Lane junction (minor to moderate beneficial);
- Redesign of St John's Road/Cloes Lane junction as a traffic signals junction with pedestrian crossing facilities on all approaches (minor to moderate beneficial);
- Modifications to St John's Road/Peter Bruff Avenue junction (minor beneficial);
- Improvements to St John's Road/A133 roundabout (minor beneficial);
- Implementation of a Travel Plan (minor beneficial).

6.65 The results of the assessment have indicated that the potential adverse environmental effects resulting from the increase in traffic generated by the Proposed Development are predicted to be minor or negligible, providing that the mitigation measures are implemented.

6.66 ECC Highways state that they have assessed the highway and transportation impact of the proposal including full assessment of the Transport Assessment, examination of all documents submitted, and undertaken a site visit and does not wish to raise an objection subject to the imposition of conditions to cover the following:

- A Stage 1 Road Safety Assessment in relation to the proposed highway mitigation measures.
- The following worked being undertaken at the Developer's expense prior to first occupation:
- The formation of a signalised junction onto St John's Road for the northern access point
- The formation of a signalised junction onto Jaywick Lane for the southern access point
- A 3m wide Cycleway/Footway across the St John's Road frontage
- A 3m wide Cycleway/Footway across the Jaywick Lane frontage
- The routing of bus services through the development site spine road including appropriately positioned bus stops
- Residential Travel Plan for the whole development, and all residential dwellings to receive transport info marketing packs
- All on-site parking facilities to accord with current policy standards
- For the St John's Road/Jaywick Lane junction, improvements to include:

- Provision of a standard roundabout (increasing the inscribed circle diameter to 22m)
- Increasing the entry width of both St John's Road approaches to the roundabout,
- Provision of a 'through lane' on St Johns Road.
- For the Woodrows/Cloes/St John's junction, signalisation of the junction
- For the St John's Road/Peter Bruff Avenue junction, increasing the entry width of both St John's Road approaches to the roundabout
- For the St John's/A133 Roundabout, prior to occupation of the development, increase the flare length and entry width of both the St John's Road (w) approach and the London Road (s) approach to the roundabout or pay an index linked contribution, the value of which shall be the equivalent of the aforementioned works.
- No discharge of surface water onto the highway
- Details of wheel cleaning facilities
- Submission of a Construction Method Statement
- Sizes of vehicular parking spaces and garages

[These are superseded by the recommendations contained in the Highway Authority's latest letter as explained above.]

- 6.67 It is considered that these provision would satisfy the PPG tests for planning conditions; and planning obligations set out in the CIL Regs as they are necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonable related to the development in scale and kind. Again, the application is consistent with the requirements of Policy SAMU4 and the precise details in respect of transportation and access will be confirmed at the reserved matters stage/s.
- 6.68 Therefore it is considered that the proposal, during either the construction or operational phases would not have a detrimental effect upon the highway network or the general accessibility of the surrounding area with sustainable mitigation measures proposed and to be secured by the appropriate means.

Air Quality

- 6.69 NPPF paragraph 109 **[now 170]** states that the planning system should contribute to and enhance the natural and local environment by, amongst other things, preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels air pollution. Para. 124 **[now 181]** of the NPPF stipulates that planning decisions should aim to ensure that any new development in Air Quality Management Areas (AQMA) is consistent with the local air quality action plan. The site isn't within an AQMA, however Dust Assessment and Mitigation Measures specified by The Institute of Air Quality Management (IAQM) can be secured by way of planning condition. The PPG provides more detailed advice on air quality.
- 6.70 As confirmed in the ES, baseline air quality conditions in the area are of a good standard, with no exceedance of the national air quality objective values predicted or measured. No significant effects on local air quality are likely as a result of the construction and operation of the proposed development. Standard practice dust mitigation measures will be implemented to control dust emissions to the extent that a significant effect does not occur during construction. Standard practice travel plan options are also suggested, to further reduce the limited impacts predicted as a result of operation traffic emissions.
- 6.71 Environmental Health confirm that they are satisfied with the content of the Construction Management Plan (CMS) and will require no further information or have no adverse comments at this time.

6.72 In the absence of significant operational effects and taking into consideration the low background air pollutant levels, the site is considered to be suitable for development in air quality terms. Therefore it is considered that the proposal, during either the demolition/construction or operational phases would not have a detrimental effect upon the air quality of the surrounding area.

Noise & Vibration

6.73 As previously referred to in this report, NPPF paragraph 109 [now 170] states that the planning system should contribute to and enhance the natural and local environment, in this case by, inter alia, preventing both new and existing development from contributing to or being put at unacceptable risk from noise pollution. Para. 123 [now 180] of the NPPF stipulates that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.

6.74 The PPG states that noise needs to be considered when new developments may create additional noise and when taking decisions about new development, there may also be opportunities to consider improvements to the acoustic environment. It goes on to say that decision taking should take account of the acoustic environment and in doing so consider:

- whether or not a significant adverse effect is occurring or likely to occur;
- whether or not an adverse effect is occurring or likely to occur; and
- whether or not a good standard of amenity can be achieved.

6.75 A baseline noise survey has been undertaken and measurements taken over a representative time period. The noise levels have then been used to determine noise sources and levels affecting the Proposed Development. Noise from additional road traffic associated with the scheme is unlikely to have a significant effect. Any impact of noise and vibration associated with construction activity would be managed through controls on the hours of construction. All new dwellings would be designed to ensure that an acceptable living environment can be achieved. The Proposed Development has been assessed and it has been identified that with the appropriate mitigation measures in place, there would be no significant effect to new or existing noise sensitive receptors.

6.76 Environmental Protection confirm that they are satisfied with the content of the acoustic report and require no further information or have no adverse comments at this time.

Soils and Agriculture

6.77 The NPPF states that 'Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality'.

6.78 The ES confirms that the application site comprises approximately 39 ha of agricultural land used for arable cropping, including sugar beet, wheat and potatoes, and for the production of turf. A detailed soil and Agricultural Land Classification (ALC) survey of the application site has been undertaken. This survey has found that there are two main soil types on the site which reflect the drift geology. Soils with coarse-textured and very stony sub soils occur in the south-central part of the land; some of these also have a high percentage of stones in the top soils. The north western and southern parts of the land have fine-textured soils with slowly permeable layers. The ALC survey found that slightly over half of the site is classified as Grade 2, which is very good quality agricultural land. The remainder, in two separate areas to the north and south, is classified as Sub-grade 3a, which is good quality

agricultural land. The Grade 2 land is limited by soil wetness, whilst the Sub-grade 3a land is limited in different parts by soil wetness, soil droughtiness and stone content.

- 6.79 Consequently, the proposal would involve the loss of 39 hectares of best and most versatile agricultural land in Grades 2 and 3a during the construction phase. The permanent loss of agricultural land cannot be mitigated, and this effect is considered to be significant. However, good practice would ensure that the soils on the site can continue to provide their various functions both on and off site. However, having regard to the presumption in favour of sustainable development, it is considered that the loss of this particular site from agricultural use is not considered to represent a sufficient basis for resisting the scheme, notwithstanding a preference for developing brownfield sites wherever possible.

Hydrology, Flood Risk & Drainage

- 6.80 Part 10 **[now 148]** of the NPPF sets out the Government's stance on climate change, flooding and coastal change, recognising that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change. Inappropriate development in areas at risk of flooding should be avoided.
- 6.81 The site is currently a greenfield site with existing local watercourses adjacent to the western and southern boundaries which eventually outfall to the sea, it is located within Flood Zone 1 and is therefore at low risk from tidal/fluvial flooding. No infiltration of surface water is proposed, ensuring that the groundwater quality on site would not be affected or possibly contaminated. Construction would also be managed and controlled to ensure no contamination of groundwater is caused during the construction phase.
- 6.82 Having reviewed the proposals and associated documents which accompanied the planning application, ECC Flood and Water Management confirm that, subject to the imposition of reasonable planning conditions, the proposal would provide appropriate measures to manage surface water through the implementations of SUDS and other engineered hydrological measures.
- 6.83 Requirement m) of Policy SAMU4 is for early engagement with Anglian Water to secure upgrades to both treatment infrastructure and network and to formulate a water and drainage strategy to serve the new development. In response to the application Anglian Water state that the foul drainage from this development is in the catchment of Jaywick Water Recycling Centre, which currently does not have capacity to treat the flow from the development site. They state that they are obligated to accept the foul flows from development with the benefit of planning permission and would therefore take the necessary steps to ensure there is sufficient treatment capacity should the planning authority grant planning permission.
- 6.84 Anglian Water stated that the development would lead to an unacceptable risk of flooding downstream, therefore a drainage strategy would need to be prepared in consultation with them to determine mitigation measures. They request that a condition requiring the drainage strategy covering the issue is imposed. From this basis it is considered that the Council could not substantiate reasons for refusal of planning permission in respect of sewerage capacity; and the proposal would not give rise to flood risk emanating from surface water generated by the proposal.
- 6.85 Overall no significant adverse or cumulative effects on water resource receptors have been identified during the construction and operational phases of the proposed development, therefore it would be compliant with legislation and planning policy.

Ground Conditions and Contamination

- 6.86 Para. 120 **[now 170]** of the NPPF states that to prevent unacceptable risks from pollution and land instability, planning decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
- 6.87 Historically the site has predominately been used for agriculture and has not been developed with the exception of land in the northeast corner of the subject site which was formally occupied by a building of unspecified use. The buildings in the north east corner are considered to be a potential source of contamination. A localised area of contamination was identified within the paddock located in the north east corner of the site. It is considered within the ES that this localised area of contamination may potentially pose a significant risk to human health of the future residents accordingly further investigation will be undertaken prior to construction to ensure acceptable conditions can be achieved. Therefore, an appropriately worded condition should be imposed upon any grant of planning permission.

Socio-economics

- 6.88 For the avoidance of doubt and duplication, the socio-economic impacts that would be mitigated through planning obligations (in addition to those cited above) secured through S106 of the Town and Country Planning Act 1990, and the policy basis for requiring them, are included in this section of the report. Ultimately, para. 203 **[now 54]** of the NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
- 6.89 Consequently, this section also outlines the manner in which planning obligations would satisfy the tests set out in the Community Infrastructure Levy Regulations 2010 (CIL Regs) and paragraph 204 **[now 56]** of the NPPF, which states that obligations should only be sought where they meet all of the following tests:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 6.90 The final core planning principle as set out within para. 17 **[now 92]** of the NPPF requires the planning system to take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.
- 6.91 The ES states that the proposed development would provide up to 950 dwellings which would result in a number of significant beneficial effects relating to: The creation of jobs during the construction phase; Supporting a larger economically-active population; Provision of new healthcare and education facilities onsite; Provision of public open space; and the provision of new open-market and affordable dwellings in a district experiencing a shortfall in housing provision. The potential for significant adverse effects arises from the increase in population which, if unmitigated, would increase pressure on local healthcare and education facilities. However, the proposal incorporates a two form-entry primary school and a 1,500 sq m medical centre, which would address the needs arising from the development and would assist in meeting the needs arising from the existing population, resulting in a net beneficial effect. It also states that the proposed development would give

rise to many significant beneficial socio-economic effects and incorporates mitigation measures to ensure any additional pressure on local facilities is addressed.

Affordable Housing

- 6.92 Para. 50 **[now 62]** of the NPPF requires, amongst other things, LPAs where they have identified that affordable housing is needed, to set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities.
- 6.93 Adopted Policy HG4 seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing, whereas draft Policy LP5 requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as Affordable Housing or Council Housing, subject to viability testing.
- 6.94 With the assistance of external consultants Officers are currently working with the applicant to ascertain the level of affordable housing that the development can reasonably provide. Any updates to this will be reported to Members at the committee meeting.

Community Facilities/Neighbourhood Centre

- 6.95 NPPF paragraphs 69 and 70 **[now 91]** state that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Planning decisions, in turn, should aim to achieve places which promote opportunities for meetings between members of the community, by planning positively for the provision and use of shared space, community facilities.
- 6.96 Requirement c) of Policy SAMU4 is for the development to provide a new neighbourhood centre. Accordingly, the application description includes a new neighbourhood centre comprising a local healthcare facility of up to 1500 sqm NIA (Net Internal Area) and up to 700 sqm GFA (Gross Floor Area) for use classes A1 (shops), A3 (food and drink) and/or D1 (community centre). The indicative masterplan shows the location of this at the Jaywick Lane end of the site.
- 6.97 Requirement d) of Policy SAMU4 is for a site for a new healthcare facility to meet the primary health care needs of the growing population in West Clacton. In its representations on the Local Plan, the NHS asked for this to be modified to allow for either new infrastructure or a financial contribution and has confirmed that it is a financial contribution of just under £330,000 that will be required.

Crime

- 6.98 NPPF paragraph 69 **[now 91]** states that planning decisions should also aim to achieve safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.
- 6.99 Essex Police raise no specific objection to the proposal, but advise that the developer should liaise with their Crime Prevention Design Advisors in the early stages of the planning and throughout the development, so as to ensure that the properties achieve Secured by Design accreditation. The objective of this being to ensure that the security of these properties, potential residents and neighbours is relevant to the location and anticipated risk. This is a matter that will be dealt with as part of any reserved matters application.

Education

- 6.100 NPPF paragraph 72 **[now 94]** states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should: Give great weight to the need to create, expand or alter schools; and Work with schools promoters to identify and resolve key planning issues before applications are submitted.
- 6.101 In accordance with requirement b) of draft Policy SAMU4, a new 2 form entry primary school with co-located 56 place early years and childcare facility (D1) use on 2.1 hectares of land is proposed to be provided as required by the Local Education Authority (LEA) through Section 106 Planning Obligations. The application makes provision for this requirement and the applicant has liaised directly with Essex County Council in its capacity as the local education authority to determine where and how this will be delivered.
- 6.102 Furthermore, requirement k) of draft Policy SAMU4 is for a financial contribution to early years and childcare and secondary education provision, also as required by the LEA through Section 106 Planning Obligations. The financial contributions, based on the summarised consultation response from ECC Education above, are thus:
- Early Years & Childcare: £1,031,789 for a 56 place nursery + £421,051 for offsite early years provision;
 - Primary Education: £4,246,642.50 towards a new primary school to be provided on the 2.1ha site;
 - Secondary Education: £3,675,550 towards secondary school places.
- 6.103 Again, with the assistance of external consultants Officers are currently working with the applicant to ascertain the level of affordable housing that the development can reasonably provide. Any updates to this will be reported to Members at the committee meeting. **[Independent viability testing has now confirmed that the affordable housing requirement should be reduced to ensure the scheme is viable and can afford the above contributions]**

Public Open Space

- 6.104 NPPF para. 73 **[now 96]** states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities; and Requirement e) of Policy SAMU4 is for minimum of 5 hectares of Public Open Space (POS) to be provided within the development, predominately at the southern end of the site to help maintain and strengthen the sense of openness between Jaywick and West Clacton.
- 6.105 As highlighted above, the landscape scheme at the Reserved Matters stage would include: An area of POS of 13ha, of which 10.7ha (64%) would be specifically designed to meet Natural England's SANGS criteria, including a single large block of 4.5ha in the southern section with a central open water/wetland feature, a 6.7ha of linear park long sections of the west, northwest and eastern site perimeters and two areas of equipped childrens play area.
- 6.106 This would satisfy the Council's policy requirements and the POS would either be transferred to a management company or transferred to TDC with £364,800 with the land laid out before transfer of ownership. **[The developer has confirmed that the open space will be transferred to a management company].**

Reserved Matters - Appearance, Landscaping, Layout and Scale

- 6.107 Paragraph 56 [now 124] of the NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 58 states that developments should aim to 'establish a strong sense of place, using streetscapes and buildings to create attractive comfortable places to live, work and visit; and respond to local character and history and reflect the identity of local surroundings and materials'.
- 6.108 Requirement f) in Policy SAMU4 advocates a master-planned approach which the applicant has followed within the material in support of the application. The current application is an outline application with all matters reserved except access. The applicant has submitted an indicative masterplan drawing, in addition to parameter plans, setting out their vision for developing the site, which along with the Design and Access Statement demonstrate one way in which the site could be developed. As referred to above, detailed access drawings have also been submitted which identify the proposed main vehicular access points onto St. John's Road and Jaywick Lane.
- 6.109 The applicant states that it is intended that the proposal would take cues from the Essex Design Guide, and Officers consider that the proposal has the potential to respond positively to local character, provide buildings that exhibit individual architectural quality and a mix of densities and house-types with well-defined public and private spaces. The public realm through additional landscaping, street furniture and other distinctive features would assist in creating a sense of place, and provide streets and spaces that are overlooked and active, promoting natural surveillance and inclusive access, as well as including parking facilities that are well integrated as part of the overall design.
- 6.110 Although appearance, landscaping, layout and scale are reserved matters, the general principle of this level of development on the site is considered acceptable; and is in keeping with both the site's location on the edge of the town and along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features.
- 6.111 Due to the scale of the development proposed, and in order to minimise disturbance to existing residents, as well as ensuring that the mix of housing meets the requirements of the Council's Strategic Market Housing Assessment, it is recommended that a Site Wide Housing and Phasing Strategy be submitted for approval prior to the submission of the first Reserved Matters application.

Living Conditions

- 6.112 One of the Core Principles set out in the NPPF is that planning should always seek to secure a high quality of design and a good standard of amenity for all existing and future occupants.
- 6.113 Whilst matters of layout and scale are reserved for future determination, with regard to privacy, the Essex Design Guide states that *"with rear-facing habitable rooms, the rear faces of opposite houses approximately parallel, and an intervening fence or other visual barrier which is above eye level from the potential vantage point, a minimum of 25 metres between the backs of houses may be acceptable"*. It goes on to state that *"where new development backs on to the rear of existing housings, existing residents are entitled to a greater degree of privacy to their rear garden boundary, and therefore where the rear faces of the new houses may not encroach any closer than 15 metres to an existing rear boundary, even though with a closer encroachment 25 metres between the backs of houses would still be achieved"*.

- 6.114 The distances between new and existing dwellings could be well in excess of those required by the Essex Design Guide and Officers consider that there are no reasonable grounds for refusal in terms of the relationship between existing dwellings in the locality and the proposed development. Consequently, adherence to these standards would ensure that the living conditions of existing residents would be protected from overlooking.
- 6.115 Furthermore, the illustrative masterplan indicates how landscaping could be retained and enhanced within the application site, so as to further mitigate the effects of the development. Officers consider that a detailed layout could be designed which achieves an appropriate relationship with the existing dwellings and which would also be sympathetic to the character of the surrounding area.
- 6.116 All in all it is considered that the above measures would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts.

Planning Obligations under S106 of the Town and Country Planning Act 1990

- 6.117 In order to mitigate against the impacts of the development it is proposed to secure a legal obligation under Section 106 of the Town and Country Planning Act. These obligations have been referred to previously in this report, but to summarise cover the following:
- On-site Council Housing/Affordable Housing (the quantum and tenure to be agreed by the Head of Planning following the satisfactory completion of viability testing);
 - New healthcare facility or in the event the land is not required a financial contribution of just under £329,613 towards health facilities elsewhere (to be determined by the NHS);
 - Transfer of new open space, including proposed equipped play areas to the Council or a management company;
 - 2.1 ha of land for a new 2 form entry primary school and early years and childcare facility and financial contributions of £1,031,789.92 for Early Year and Childcare and £4,246,642.50 for Primary Education to go towards both their construction and expansion of existing facilities;
 - Financial contribution of £3,675,550 to create additional secondary school places;
 - New neighbourhood centre; and
- 6.118 Financial contributions towards off-site ecological mitigation. Overall, it is considered that the above satisfy the tests for planning obligations set out in the CIL Regulations, which are necessary to: make the development acceptable in planning terms; directly relate to the development; and fairly and reasonable related to the development in scale and kind.

[The s106 has been drafted to include all of the above as well as £500,000 for the routing of bus services through the development.]

Planning Balance/Conclusion

- 6.119 This is an application for Outline Planning permission, with all matters reserved with the exception of access. The applicant has provided details of how they propose to access the site off St. John's Road and Jaywick Lane; and the Local Highway Authority has no objection to the proposed arrangements. All other matters (Appearance; Landscaping; Layout; and Scale) are reserved and it can therefore be said that the application seeks to establish the principle of residential development of the site.
- 6.120 NPPF paragraph 14 **[now 11]** stipulates that at its heart is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means approving development proposals that accord with the development plan without delay; but where the development

plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.

- 6.121 It has been acknowledged that the site is currently situated outside a defined settlement boundary, and therefore for all intents and purposes rural policies of restraint apply. However, the site is specifically allocated through Policy SAMU4 for a mix of residential development, community facilities and public open space in the emerging Local Plan. This can be afforded some weight in the decision making process due to it being at the Publication Draft stage, and is a material consideration in the determination of this planning application.
- 6.122 The application is accompanied by an Environmental Statement, which concludes that no significant adverse or cumulative effects on the environment have been identified during the construction and operational phases of the proposed development, therefore it would be compliant with legislation and planning policy.
- 6.123 In addition, whilst outline in form, Officers are content that subject to the imposition of reasonable planning conditions **[including the revised conditions recommended by the Highway Authority]** and obligations that the general principle of this level of development on the site is considered acceptable; and is in keeping with both the site's location on the edge of the town and along with the need to facilitate on site strategic landscaping, open space and the retention of existing landscape features. Furthermore, the proposal would ensure that the living conditions of existing and future residents would be protected from any materially detrimental impacts whilst providing much needed housing within the District.

Background Papers

Essex County Council's revised Highway's recommendations dated 3rd August 2018.

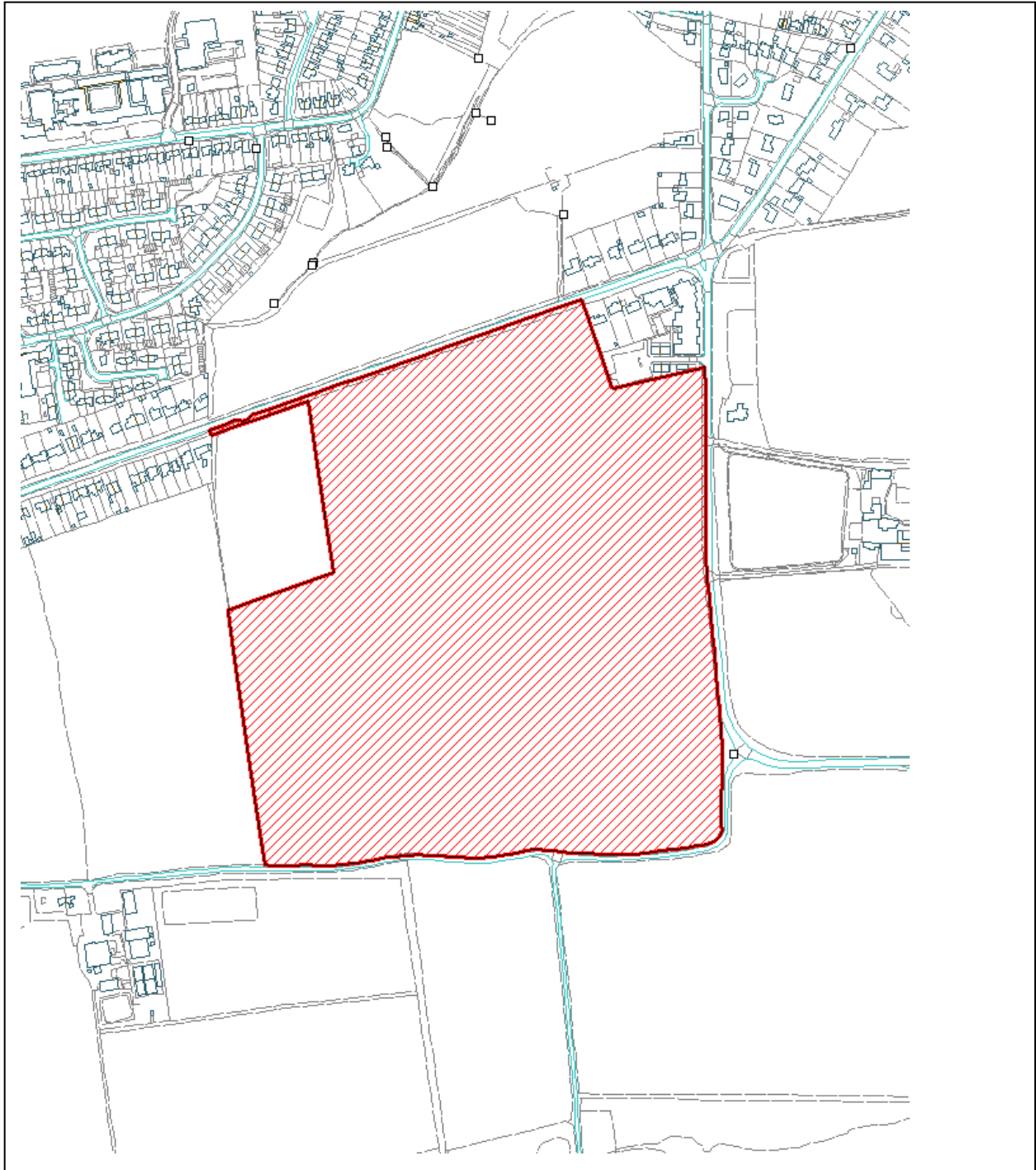
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PLANNING COMMITTEE

13th November 2018

REPORT OF THE HEAD OF PLANNING

A.3 PLANNING APPLICATION - 17/01181/OUT - LAND TO THE SOUTH OF LONG ROAD AND TO WEST OF CLACTON ROAD MISTLEY CO11 2HN



DO NOT SCALE

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Application:	17/01181/OUT	Town / Parish: Lawford Parish Council
Applicant:	Tendring Farms Ltd	
Address:	Land to The South of Long Road and to West of Clacton Road Mistley CO11 2HN	
Development:	Outline application with all matters reserved, other than strategic access points onto the public highway, for the erection of up to 485 dwellings, up to 2 hectares of employment land (A2/A3/B1/B2; B8; D1 uses), with associated public open space and infrastructure.	

1. Executive Summary

- 1.1 This outline planning application with all matters reserved, other than access, seeks approval for the principle of up to 485 dwellings, up to 2 hectares of employment land (including use classes A2: financial and professional services; A3: restaurants and cafes; B1: business use; B2; B8 and D1: non-residential institutions with associated public open space and infrastructure. Details of appearance, landscaping, layout and scale are reserved for a future application. However parameter plans have been submitted to confirm the limitations of the reserved matters.
- 1.2 This current application differs from that previously approved (15/00761/OUT for 300 dwellings) for the following main reasons:
- The number of proposed dwellings has increased from 300 to 500
 - Potential B2 use has been included
 - Potential B8 use has been included
 - Level of landscaping reduced around the boundary of the site
 - New access/egress for commercial area onto Dead Lane
- 1.3 The site lies immediately south of Long Road on the Mistley side of the Mistley/Lawford Parish boundary and borders Clacton Road to east and Dead Lane to the south. The site comprises 23 hectares of arable agricultural land that is roughly square in shape and that rises from its northern boundary but then falls to a relatively flat plateau over the southern part of the site.
- 1.4 The applicant has provided details of how they propose to access the site off Long Road, Clacton Road and Dead Lane; and the Local Highway Authority has no objection to the proposed arrangements. All other matters (Appearance; Landscaping; Layout; and Scale) are reserved.
- 1.5 The principle of residential development in this location is acceptable as the site is located within the Settlement Development Boundary in the Emerging Plan and the parameter plans show that the allocation of Green Gap and Employment in the Emerging Plan are retained.
- 1.6 Whilst the application is outline in form, Officers are content that subject to the imposition of reasonable planning conditions and obligations that the general principle of this level of development on the site is considered acceptable; and is in keeping with both the site's location.

Recommendation: Approval

That the Head of Planning be authorised to grant planning permission for the development subject to:-

a) Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):

- On-site Council Housing/Affordable Housing - 18 gifted units and 60 affordable homes
- Education contribution - £633,754 for Early Years and Childcare; £1,852,797 towards Primary Education and £1,876,465 towards Secondary Education
- Health contribution of £173,485
- Completion and transfer of public open space; and
- Contribution of £16,000 towards off-site traffic management measures at the A137 railway crossing.
- Provision and Monitoring of Residential Travel Plan

b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning in their discretion considers appropriate).

Conditions:

1. Standard 3 year time limit for submission of reserved matters application.
2. Standard 2 year limit for commencement of development following approval of reserved matters.
3. Details of appearance, layout, scale and landscaping (the reserved matters).
4. Layout and phasing plan/programme.
5. Development in general conformity with submitted illustrative master plan;
6. Development to contain up to (but no more than) 485 dwellings and 2 hectares of employment land.
7. Off-site highway works:
 - A priority junction with right turn lane (with two pedestrian refuge islands) in Long Road to provide access to the site.
 - A priority junction off Clacton Road to provide access to the site.
 - Improvements at the A137 Coxs Hill/Long Road/Wignall Street mini roundabout
 - Provision of two new bus stops in Long Road, or upgrade of the stops which would best serve the proposal site
 - A minimum 3 metre wide footway/cycleway along the proposal site's Long Road Frontage
 - A priority junction with right turn lane in Clacton Road to provide access to Dead Lane
 - Widening of Dead Lane
8. Provision of Residential Travel Information Packs
9. No discharge of surface water onto the highway
10. Construction Management Plan to include noise, emission, dust, lighting controls, wheel cleaning facilities
11. Archaeological assessment/trial trenching
12. No development to take place until a detailed surface water drainage scheme has been agreed
13. No development to take place until a scheme to minimise the risk of offsite flooding and prevent pollution during construction works has been agreed
14. Maintenance Plan for surface water drainage system
15. Year Logs of maintenance of surface water drainage system
16. Foul water drainage scheme.

- 17. Hard and soft landscaping plan/implementation.
- 18. Ecological mitigation/tree protection measures (including bat protection measures).
- 19. Mitigation measures as set out in the revised shadow Habitat Regulations Assessment
- 20. Broadband connection.
- 21. Local employment arrangements.

2. **Planning Policy**

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL3 Minimising and Managing Flood Risk

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

ER7 Business, Industrial and Warehouse Proposals

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG3A Mixed Communities

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

COM2 Community Safety

COM6 Provision of Recreational Open Space for New Residential Development

COM21 Light Pollution

COM23 General Pollution

COM26 Contributions to Education Provision

COM29 Utilities

COM31A Sewerage and Sewage Disposal

EN1 Landscape Character

EN4 Protection of the Best and Most Versatile Agricultural Land

EN6 Biodiversity

EN6A Protected Species

EN6B Habitat Creation

EN12 Design and Access Statements

EN13 Sustainable Drainage Systems

EN17 Conservation Areas

EN29 Archaeology

TR1A Development Affecting Highways

TR1 Transport Assessment

TR3A Provision for Walking

TR5 Provision for Cycling

TR6 Provision for Public Transport Use

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SP3 Meeting Housing Needs

SP5 Infrastructure & Connectivity

SP6 Place Shaping Principles

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP1 Improving Health and Wellbeing

HP2 Community Facilities

HP3 Green Infrastructure

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

PP12 Improving Education and Skills

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL7 Archaeology

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

SAE2 Land South of Long Road, Mistley

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

- 2.1 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 2.2 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.
- 2.3 With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in

the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

2.4 In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the Council is able to demonstrate a robust five year supply of deliverable housing sites (as confirmed in recent appeal decisions) and housing delivered over the previous three years has been comfortably above 75% of the requirement. There is consequently no need for the Council to consider an exceptional departure from the Local Plan on housing supply grounds and applications for housing development are to be determined in line with the plan-led approach.

3. Relevant Planning History

15/00761/OUT	Outline application with all matters reserved, other than strategic access points onto the public highway, for the erection of up to 300 dwellings, up to 2 hectares of employment land (A2/A3/B1/D1 uses), with associated public open space and infrastructure.	Approved	18.07.2016
16/00818/OUT	Resubmission of outline application with all matters reserved, other than strategic access points onto the public highway, for the erection of up to 300 dwellings, up to 2 hectares of employment land (A2/A3/B1/D1 uses), with associated public open space and infrastructure.	Application Returned	
17/00534/OUT	Variation of condition 4 of 15/00761/OUT to change parameter plans.	Refused	10.08.2017
17/00535/DETAIL	Application for Phase 1 Reserved Matters for Access, Appearance, Landscaping, Layout and Scale for 96 Residential following Outline Planning Permission 15/00761/OUT (as subsequently amended by 17/01537/OUT).	Approved	16.08.2018
17/01181/OUT	Outline application with all matters reserved, other than strategic access points onto the public highway, for the erection of up to 500 dwellings, up to 2 hectares of employment land (A2/A3/B1/B2; B8; D1 uses), with associated	Current	

public open space and infrastructure.

17/01537/OUT	Variation of condition 4 of application 15/00761/OUT to change the description of the condition to 'The reserved matters shall be in general conformity with the following indicative drawings: Building Heights Plan - Drawing No: 001, Illustrative Masterplan - Drawing No: PL17006/04 and Landscape Plan - Drawing No: 003'.	Approved	14.06.2018
18/01190/OUT	Variation of Conditions 1, 11, 12, 13, 14, 15, and 16 of 17/01537/OUT to allow work to commence prior to the submission of remaining reserved matters (reserved matters for 96 units already submitted).	Current	

4. Consultations

Environmental Protection In order to minimise potential nuisance to nearby existing residents caused by construction works, Pollution and Environmental Control ask that the following below are conditioned;

Prior to the commencement of any site clearance, demolition or construction works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from the Pollution and Environmental Control. The method statement (Demolition/Construction Management Plan) should include the following;

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 5228:2014.
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 Local 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. A scheme of measures for the control and suppression of dust emissions shall be submitted to and approved in writing by the Local Planning Authority. Such agreed works shall be implemented in the approved form prior to the commencement of any development of the site and shall be maintained in the approved form until the development is completed and ready to be signed off as complete for the permitted purpose
2. All waste arising from the 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.
3. No materials produced as a result of the site development or clearance shall be burned on site. 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.

Dust Control

1. Dust suppression methods to be employed during construction so as to minimize likelihood of nuisance being caused to neighbouring properties. A scheme of measures for the control and suppression of dust emissions shall be submitted.

Lighting Control

1. Any lighting of the site under development shall be located, designed and directed [or screened] so that it does not cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/cause unnecessary light pollution outside the site boundary. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Professionals.

Prior to commencement of the development a scheme should be submitted to the Local planning authority showing the proposed residential units (with the windows closed) meet the following internal noise levels shall be achieved; 35dB(A) Leq 16 hours 07.00hrs - 23.00hrs in Living rooms, while 30dB(A) Leq 8 hours in Bedrooms and no individual noise event to exceed 45dB(A) max (measured with F time weighting) 23.00hrs - 07.00hrs. External noise affecting gardens, balconies or amenity spaces shall not exceed 55dBLAeqt. (BS8233:2014). The scheme of sound insulation shall be submitted to and approved in writing by the Local Planning Authority.

Waste Management

No comments at this stage.

Tree & Landscape Officer
(original comments)

The application site is in agricultural use and the development proposal has the potential to adversely affect the local landscape character and the established trees and hedgerows on the site boundaries.

In order to assess the impact of the development proposal on the

existing trees and other vegetation on the land the applicant has provided a detailed Tree Survey and Report. The report accurately describes the condition of the trees and shows the extent of the constraint that trees and hedgerows are on the development of the land. The report has been carried out in accordance with the recommendations contained in BS5837: 2012 Trees in relation to design, demolition and construction.

In simple terms the information provided adequately demonstrates that the development of the land could take place without harm being caused to the trees and other vegetation on the land. It will be important to secure the retention of the Oak and Hollies on the eastern boundary of the land, adjacent to Clacton Road.

In terms of the impact of the development on the local landscape character the applicant has submitted a Landscape and Visual Appraisal to assess the likely effect on the character and visual qualities of the landscape.

The Landscape and Visual Impact Assessment has been carried out in accordance with Landscape Institute and Institute of Environmental Management and Assessment guidance contained in the Guidelines for Landscape and Visual Impact Assessment Third Edition 2013.

It addresses the nature of the impact and effect on the local landscape character and refers, along with other technical guidance documents, to the Tendring District Council Landscape Character Assessment (LCA) to describe the local landscape character.

It recognises that severe harm will be caused to the existing landscape character and sets out the steps that will need to be taken to mitigate the harm. In terms of the visual impact the LVIA sets out the potential benefits of creating a soft edge to the developed land to soften and screen the development from the viewpoints set out in the LVIA.

In terms of its impact on the local landscape character the LVIA establishes that harm to the landscape will result from the development but that, in the long term, soft landscaping will help to mitigate and minimise the harm to a point where the development is satisfactorily assimilated into its setting.

The key to the successful integration of the development into the local landscape and to secure a satisfactory arrangement for the layout of the public realm will be to secure a comprehensive soft landscaping scheme for the whole site. This should be addressed as a reserved matter.

Tree & Landscape Officer
(comments on
amendments)

The drawing entitled Amended Landscape Masterplan Ref: 50121-dr-lan-102-Rev b appears to show an increased provision of green space particularly on the southern boundary, parts of the western boundary and in the north eastern corner of the application site. In this respect the amendments are desirable as they show an increase in the 'greening' of the development.

However the Detailed Layout Plan Ref: 04v2 does not reflect the

extent of the green corridor/green spaces and general level of planting shown on the Amended Landscape Masterplan.

In particular the main spine road and smaller link roads are shown as green on the Amended Landscape Masterplan but do not appear to have any planting shown on the Detailed Layout Plan.

For clarity and to avoid misunderstanding and confusion the information shown on the two plans should be amended so that both plans reflect the reality of the development proposal.

Anglian Water Services
Ltd

No response received.

Babergh District Council

Have received the documents and can see no reason why Babergh District Council would wish to object to the proposal. Any concerns over the impacts on public transport or highways will be dealt with through the statutory consultation process. The site cannot be seen from any viewpoint within Babergh's district. Therefore Babergh District Council do not wish to raise any objection to the application.

Essex County Council
Archaeology

The Essex Historic Environment Record, and the archaeological desk based assessment and geophysical survey that accompany the application identify the potential for significant heritage assets in the form of below ground archaeological remains that will be affected by the proposed development.

Recommend a programme of trial trenching followed by open area excavation.

ECC Highways Dept

This Authority has assessed the highway and transportation impact of the proposal and does not wish to raise an objection subject to the following:

All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.

Planning application 15/00761/OUT was granted permission and subject to a range of conditions. Condition 17 secured the following aspects;

- 1) A suitable vehicle access onto Long Road
- 2) A suitable vehicle access onto Clacton Road
- 3) Improvements to the mini roundabout on Cox's Hill
- 4) Either 2 new bus stops in Long Road or upgrade to those best serving the site,
- 5) A 3m wide cycleway/footway on the Long Road frontage.

These items should be carried forward onto any permission granted under this application.

Notwithstanding the layout plan currently submitted the internal layout shall be arranged in accordance with the Essex Design Guide, and all current policy standards re parking and turning, road widths, drainage, lighting, materials and construction.

The following additional conditions are requested

- There shall be no discharge of surface water onto the highway.
Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.
- Prior to commencement of the proposed development details of a wheel cleaning facility within the site and adjacent to the egress onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The wheel cleaning facility shall be provided at the commencement of the development and maintained during the period of construction / in perpetuity
Reason: To ensure that loose materials and spoil are not brought out onto the highway, in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

NOTE: Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. Further, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence. Therefore the applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway

- Each new residential dwelling shall be provided with 2 vehicle parking spaces and all vehicular parking spaces shall have minimum dimensions of 2.9 metres x 5.5 metres.
Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.
- Any single garages should have a minimum internal measurement of 7m x 3m
Any double garages should have a minimum internal measurement of 7m x 6m
Any tandem garages should have minimum internal measurements of 12m x 3m
Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011
- Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a

Residential Travel Information Pack for sustainable transport approved by Essex County Council for all new residential dwellings, 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 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

NOTE: All new residential development requires this condition to include travelcards unless no service is provided in the vicinity of the site.

Season tickets for either bus or rail use instead of the above vouchers should only be secured in town centre locations with excellent access to bus/rail routes and where they would represent the best use of developer contributions to mitigate site impact. This will be determined on a site by site basis by the Development Management Officer.

- Prior to first occupation of the proposed development, the Developer shall submit a residential travel plan to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall then be actively implemented for a minimum period from first occupation of the development until 1 year after final occupation.

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 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

NOTE: The aforementioned travel plan shall be accompanied by an annual monitoring fee of:

250 to 449 dwellings = £1,500 p/a

450 to 749 dwellings = £2,500 p/a

750 to 999 dwellings = £3,000 p/a

More than 1000 dwellings = negotiated case by case (index linked) to be paid to Essex County Council.

Residential Travel Plans are provided by the developer for any residential schemes of 250 dwellings and above.

NOTE: Any signal equipment/structures/non-standard materials/trees/public rights of way through the site proposed within the existing extent of the public highway or areas to be offered to the Highway Authority for adoption as public highway, will require a contribution (commuted sum) to cover the cost of future maintenance for a period of 15 years following construction.

Environment Agency

Returned the consultation without comment because they have checked the application and it is not clear why we have been consulted.

This approach has been adopted because we are currently receiving

large numbers of inappropriate consultations. These significantly reduce the time and staff resources we have to provide you with timely statutory consultation responses.

Natural England
(original comments)

Based on the information provided in support of the application, Natural England's view is that there is currently insufficient information to allow likely significant effects to the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site, the Essex Estuaries Special Area of Conservation (SAC) and the Colne Estuary SPA and Ramsar site to be ruled out.

Also consider that here is insufficient information to rule out adverse effects to the Stour Estuary, Cattawade Marshes and Colne Estuary Sites of Special Scientific Interest (SSSIs).

Natural England
(comments on additional information)

Based on the information provided in support of the application, and with the inclusion of conditions, it is Natural England's view that the proposal is unlikely to have a significant effect on the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site, the Essex Estuaries Special Area of Conservation (SAC) and the Colne Estuary SPA and Ramsar site.

Also consider that it is unlikely to adversely affect the Stour Estuary, Cattawade Marshes and Colne Estuary Sites of Special Scientific Interest (SSSIs).

Have no objections, subject to the inclusion of planning conditions to secure the mitigation measures outlined in the revised shadow Habitats Regulations Assessment (D F Clark Bionomique Ltd, dated 22nd March 2018) and summarised below:

1. Recreational Disturbance

On-site mitigation measures are an important part of the recreational disturbance mitigation package for residential development close to designated sites in that they can make the development attractive to new residents for undertaking informal recreation (including dog walking), thereby minimising the frequency of visits to nearby designated sites.

In order to maximise the attraction for this use, advise that a development of this scale and proximity to designated sites should include:

- High-quality, informal, semi-natural areas under appropriate management
- Circular dog walking routes of greater than 2.7 km² and/or with links to surrounding public rights of way
- Dedicated 'dogs-off-lead' areas
- Signage/leaflets to householders to promote these areas for recreation
- Dog waste bins

Advise that should outline permission be granted, a condition should be included requiring that the above provisions are secured at the detailed stage within an on-site open space strategy.

In terms of 'off-site' measures, the project HRA acknowledges the role of the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) in mitigating impacts

from all new housing within the district (and wider) 'in combination'. The council's emerging Local Plan HRA conclusion of 'no adverse effect on integrity' from recreational pressure arising from new housing was made on the basis that relevant development would contribute financially to the emerging RAMS, as the mechanism for mitigating 'in combination' impacts; with this development proposal being a site allocation in your Local Plan (Policy SAE2), we advise that a financial contribution to the RAMS is required. From our previous correspondence with your authority on other residential developments in Tendring coming forward ahead of the RAMS (your refs: 17/02162/OUT and 17/02168/OUT), we understand that it is acceptable at this outline stage to secure full adherence to the RAMS at the detailed stage via a suitably worded planning condition.

Therefore advise that, should outline permission be granted, a condition should be included requiring full adherence with the emerging Essex Coast RAMS at the detailed stage. This will require a per house financial contribution to be calculated through the ongoing RAMS project work.

2. Water Quality

With regards to foul drainage, we note that the project HRA states that "*Anglian Water provided further clarification on 28th February 2017 confirming that the detailed discharge methodology was considered acceptable and as such, adverse effect as a result of the drainage design is not considered a significant adverse effect (Appendix 5)*". We therefore have no objection in this respect.

To summarise, Natural England has no objection to this development provided the mitigation measures outlined above are fully secured through appropriate planning conditions or obligations.

Natural England
(comments on
amendments)

The advice provided in our previous response applies equally to this amendment.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

ECC Schools Service
(original comments)

On the basis of 500 houses all being 2 or more bedrooms, a development of this size can be expected to generate the need for up to 45 Early Years and Childcare places, 150 primary school and 100 secondary school places.

Early Years and Childcare

The proposed development is located within the Manningtree, Mistley, Little Bentley and Tendring Ward. There are currently only 2 childcare providers in this ward, 1 childminder and 1 holiday club. Although there are 21 vacant places at the holiday club, neither of these providers offer places of free early education entitlement which the Local Authority has a statutory duty to provide. For ECC to meet its statutory duties it must both facilitate sufficient places to meet free childcare entitlement demand and also ensure a diverse range of provision so that different needs can be met. Although there is some capacity in the area, the data shows insufficient places to meet demand from this proposal. It is, thereby, clear that additional

provisions will be needed and a project to expand/create provision is proposed.

An additional 45 places would be provided at an estimated total cost of £653,355 at April 2017 prices.

In addition to this there is an employment element to be considered as there is no employee numbers mention, this would need further discussion.

Primary Education

This proposal represents an increase on the 300 homes permitted under application 15/00761/OUT. As set out in relation to that permission, there is no sufficient education infrastructure to accommodate pupils from additional homes in this area, and commensurate developer contributions are hereby sought to help expand local provision.

In response to 15/00761/OUT and the neighbouring Bromley Road permission 15/00876/OUT, ECC has included the option of expanding Lawford Primary School in its 'Ten Year Plan' to meet the demand for school places. Based on current forecasts, a further 200 homes cannot also be accommodated by that project. If this planning application is permitted it may also, thereby, be necessary to consider expansion projects at either Highfields Primary School and/or Mistley Norman CE Primary School. It should be noted that pupils moving to the new development would likely gain reception places at Lawford Primary School, as part of the annual admissions round, on the basis of the relatively short distance between the development and the School. The impact of the development would thus be felt by families living in the wider area, that currently have a reasonable expectation of gaining admission to Lawford Primary, having to be accommodation at a different school.

Secondary Education

With regards to secondary education, there is also clear evidence of rising demand in the area and, the Ten Year Plan includes the option of expanding Manningtree High School. An additional 200 homes over and above the number that are currently planned for could potentially, depending on timing, be accommodated by increasing the scope of that project.

Having reviewed the proximity of the site to the nearest schools, ECC will not be seeking a school transport contribution, however the development should ensure that safe direct walking and cycling routes to local schools are available.

ECC Schools Service
(comments on
amendments)

On the basis of 485 houses all being 2 or more bedrooms, a development of this size can be expected to generate the need for up to 45 Early Years and Childcare (EY&C) places, 150 primary school, and 100 secondary school places.

Early Years and Childcare

The proposed development is located within in the Manningtree,

Mistley, Little Bentley and Tendring ward. There are currently only 2 childcare providers in this ward, 1 childminder and 1 holiday club. Although there are 21 vacant places at the holiday club, neither of these providers offer places of free early education entitlement (FEEE) which the LA has a statutory duty to provide. For Essex County Council to meet its statutory duties it must both facilitate sufficient places to meet free childcare entitlement demand and also ensure a diverse range of provision so that different needs can be met.

Although there is some EY&C capacity in the area, the data shows insufficient places to meet demand from this proposal. It is, thereby, clear that additional provisions will be needed and a project to expand/create a provision is proposed.

An additional 43.6 places would be provided at an estimated total cost of £633,754 at April 2017 prices. This equates to £14,519 per place and so, based on demand generated by this proposal set out above, a developer contribution of £633,754 index linked to April 2017, is sought to mitigate its impact on local EY&C provision.

In addition to this there is an employment element to be considered, as there is no employee numbers mentioned. This will need further discussion.

Primary Education

This proposal represents a significant increase on the 300 homes permitted under planning application TEN/15/761. As set out in relation to that permission, there isn't sufficient education infrastructure to accommodate pupils from additional homes, in this area, and commensurate developer contributions are hereby sought to help expand local provision.

In response to TEN/15/761 and the neighbouring Bromley Road permission (TEN/15/876), Essex County Council has included the option of expanding Lawford Primary School in its 'Ten Year Plan' to meet the demand for school places. Based on current forecasts, a further 200 homes cannot also be accommodated by that project. If this planning application is permitted it may also, thereby, be necessary to consider expansion projects at either Highfields Primary School and/or Mistley Norman CE Primary School. It should be noted that pupils moving to the new development would likely gain Reception places at Lawford Primary School, as part of the annual admissions round, on the basis of the relatively short distance between the development and the School. The impact of the development would thus be felt by families living in the wider area, that currently have a reasonable expectation of gaining admission to Lawford Primary, having to be accommodated at a different school.

An additional 145.5 places would be provided at an estimated total cost of £1,852,797 at April 2017 prices. This equates to £12,734 per place and so, based on demand generated by this proposal set out above, a developer contribution of £1,852,797 index linked to April 2017, is sought to mitigate its impact on local primary school provision.

Secondary Education

With regards to secondary education, there is also clear evidence of rising demand in the area and, our Ten Year Plan includes the option of expanding Manningtree High School.

An additional 200 homes over and above the number we have currently planned for could potentially, depending on timing, be accommodated by increasing the scope of that project.

An additional 97 places would be provided at an estimated total cost of £1,876,465 at April 2017 prices. This equates to £19,345 per place and so, based on demand generated by this proposal set out above, a developer contribution of £1,876,465 index linked to April 2017, is sought to mitigate its impact on local secondary school provision.

Having reviewed the proximity of the site to the nearest schools, Essex County Council will not be seeking a school transport contribution, however the developer should ensure that safe direct walking and cycling routes to local schools are available.

ECC SuDS Consultee
(original comments)

Having reviewed the Flood Risk Assessment and the associated documents, issue a holding objection to the granting of planning permission based on the inadequate surface water drainage strategy.

ECC SuDS Consultee
(amended comments)

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

Condition 1

No works shall take 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.

Condition 2

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Condition 3

No works shall take place until 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, has been submitted to and agreed, in writing, by the Local Planning Authority.

Condition 4

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.

NHS East Essex CCG
(original comments)

The development would give rise to a need for improvements to capacity, in line with the emerging CCG Estates Strategy, by way of extension, reconfiguration, refurbishment or potential relocation for the benefit of the patients at The Lawford Surgery, a proportion of the cost of which would need to be met by the developer.

A developer contribution will be required to mitigate the impacts of this proposal NHS NEE CCG calculates the level of contribution required, in this instance to be £173, 485. Payment should be made before the development commences.

NHS East Essex CCG
(comments on amendments)

Following review of this amended application, NEE CCG do not wish to revise their mitigation response and therefore the previous response would still apply (set out above).

Cadent Gas Limited

The below apparatus have been identified as being in the vicinity of the proposed works:

- High or Intermediate pressure (above 2 bar) Gas Pipelines and associated equipment
- Low or medium pressure (below 2 bar) gas pipes and associated equipment (as a result in is highly likely that there are gas services and associate apparatus in the vicinity).

Should the application be approved please can the following notes be included an informative note for the Applicant:

- Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.
- If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.
- If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.
- All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

UU Housing Consultation

There is a high demand for housing in the Mistley area and there are currently 102 households on the housing register seeking a 1 bedroom property, 75 seeking a 2 bedroom property, 43 seeking a 3 bedroom property and 16 seeking a 4 bedroom property.

The site is subject to a S106 agreement with regards to planning

application 15/00761. In this S106 agreement, it is agreed that 18 of the 300 homes will be gifted to the Council. This application seeks to expand the site by a further 200 homes. Although the applicant has proposed a pro-rata increase in the number of gifted homes to 30 in total, this is not sufficient to meet demand. As a consequence, this department would like to see 30% of the additional 200 homes be provided on-site as affordable housing. The department would prefer that another registered provider be sought to take on the extra 60 homes. If another provider cannot be identified, the Council will consider other delivery options.

UU - Open Space
Consultation

It is noted that there will be a provision for open space and play within the development site. The detail as to what will be included and location are not clear at this stage. Due to the size and location of the development it is anticipated need for provisions to a NEAP standard. Ideally located away from residential properties.

Essex Wildlife Trust

Essex Wildlife Trust has no objection to this application subject to the inclusion of condition(s) to secure the provision and management in perpetuity of the proposed ecological mitigation/features.

5. Representations

5.1 Mistley Parish Council strongly objects to this planning application for the following reasons:

- Increase in the number of dwellings is excessive and unnecessary and unsustainable as Tendring District Council has identified 6.2 years of housing land supply.
- Increasing the number of houses from 300 to 485 would exacerbate the effect of creating a distinct settlement about the size of Manningtree.
- Three-storey buildings in this part of the parish would be an eyesore and would have a significant negative visual impact particularly from the Clacton Road.
- The central area of the site around the proposed green would have a high density of between 35 to 40 houses per hectare which is abnormal for a rural urban settlement.
- Concern about the number and area size of the proposed attenuation ponds to be created and sited along the boundary with Clacton Road which had potential safety issues and flooding of Clacton Road. With no natural drainage these would become stagnant and give rise to insects and vermin.
- Concern about the proposed access to and from the employment land from Dead Lane, which would result in Satellite Navigation systems directing vehicles along the remaining narrow lane in order to get to Bromley Road and Cox's Hill. Despite the developer's comments Dead Lane is well used by cyclists.
- Concern that the traffic study was dated from 2014 and that there had been no additional studies since then. In particular, there was no mention of the severe impact of additional traffic on Trinity Road and Brook Street, or the effect of traffic turning right into the estate from Long Road and Clacton Road.
- The environmental impact from the increase from 300 to 485 houses would be significant. A development of this magnitude would not be sustainable without including retail units so households would need to drive to the shops in Manningtree.
- There is insufficient provision for off-road parking.
- The traffic impact from the permission to construct 67 houses off New Road.

5.2 Lawford Parish Council strongly objects to the proposed increase in housing on this development, for the following reasons:

- Whilst the postal address is Mistley the development will have equal, if not greater impact on Lawford as many of Lawford's facilities are in closer proximity to the development.
- TDC has identified 6.2 years housing land supply.
- Density – lack of green space
- With in excess of 1000 new homes identified for Lawford/Mistley and Manningtree schools and doctors are oversubscribed.
- The industrial development on the site exits on to Dead Lane, a single track country lane.
- Increased traffic on already busy roads, traffic being a serious issue at the Manningtree rail underpass/crossing, before the inception of additional housing.

5.3 Bradfield Parish Council objects to application for the following reasons:

- This application to increase the number of houses from 300 to 500 will create a village bigger than nearby Bradfield, but with none of the amenities that Bradfield enjoys.
- This development is of a density more akin to city suburb, not the rural setting that its construction will destroy.
- This along with all the other large development projects across the region will put unsustainable pressure on the local infrastructure:
- There are already queues at Horsley Cross roundabout and Coxs Hill and Manningtree Station crossing already causes gridlock during peak times.
- There is no room on the trains and no spaces in the Manningtree railway station carpark.
- The local primary and secondary schools are at capacity.
- The GP surgeries and Colchester Hospital are at capacity.
- The majority of the houses planned are beyond the reach of many local people.
- Tendring can now show a 6.2 year supply of housing.

5.4 A letter from Cllr. Andy Baker has been received which raises objections to the application for the following reasons:

- The proposed application for 500 homes, having already got outline for 300 homes, is unfair and totally disproportionate to the area.
- Policy QL1 states 'limited development consistent with local community needs will be permitted'; a 60% increase in the number cannot be considered to be limited and is definitely not consistent with community needs. Within the local area there is a potential 30-35% increase in population and that is without factoring in another 200 homes.
- Policy QL9 states 'provide a positive contribution to the quality of the local environment and protect or enhance local character'. The development will not provide a positive contribution. Local services are already stretched, including road infrastructure at certain times of the day, and it will only get much worse if this development is allowed.
- Policy QL10 states 'access to the site is practicable and the highway network will be able safely to accommodate the additional traffic the proposal will demonstrate'. The original outline permission gives access from two locations, Long Road and Clacton Road, and the indicative plan shows that the road through the centre of the site will be continuous, thus no double providing a cut through for traffic from Clacton Road through the site to Long Road. This indicates that the internal layout of the development will not be safe.
- Essex County Council Highways have raised no objection to this proposal for an extra 200 houses, but for the prior application for 300 were concerned with the cumulative impact of this proposed development and 2 others that eventually a financial contribution (£16,000) was agreed (Section 106) towards proposed improvements at the Railway Crossing at Manningtree Station, and the applicant is

still prepared to continue to agree with this. There were also other highways conditions applied, including improvements at Coxs Hill roundabout (a dedicated right hand turn lane to go North), junction with Long Road and Wignall Street, which the applicant has described in Paragraph 7.18 of their Transport Assessment (Part 1) as being a 'significant capacity enhancement for the junction'. There is no further mitigation either proposed by the applicant, nor by ECC Highways, which is quite astonishing as this application is a 60% increase on the previous one. One would expect both to provide even more detailed information to show the mitigated effects of a 60% increase in traffic, and not just accept the two previous agreed mitigation factors to remain without some further measures proposed to be put in place. As this has not been done then it has not been demonstrated how Policy QL10 has been complied with as the highway network will not be able to accommodate the additional traffic.

- Within the applicants Transport Assessment (Part 1) Paragraph 7.14, Table 7.1 indicates that in 2022 (only some 4 years hence) that the network will be above capacity during the peak am and pm times. They go on to say, as stated above (Paragraph 7.18) that the improvements at Coxs Hill/Long Road would be ' a significant capacity enhancement for the junction', which then modifies the result, showing network will be below capacity during the am and pm periods. Looking at Paragraph 7.34 and Table 7.7, the information being used to come to this conclusion is some 7 years old, and therefore will be no doubt very out of date.
- It is also stated (Paragraph 7.3) that a development of 500 homes is not a significant development change. It is a huge increase in numbers and therefore would have a great and severe impact on the local area if allowed.
- There is also the proposed entry and exit onto the commercial part of the development, from Dead Lane, although the applicants have indicated some road improvements to the area. Dead Lane is a single track lane. Although the applicants have indicated that commercial vehicles will only be able to enter and exit via a specific entrance and exit, it is highly probable that commercial vehicles will be guided by SatNavs, and will enter Dead Lane from Bromley Road, Lawford and come from West to East.
- Although this application is for outline permission, the applicant has provided, in their Design and Access Statement, various indications of what will within the site. On Page 44 for example it is indicated that there will be one to three storey buildings in 3 parts. Whilst only indicative, this shows the intention of the applicant to-build 3 storey apartment buildings, which would be quite prominent within the local landscape.
- The Council can demonstrate a 5 year housing land supply and, in this case, Paragraph 14 of the NPPF is not engaged, and the presumption in favour of sustainable development is not applicable.

5.5 In addition to the above approximately 155 letters of objection have been received which raise the following concerns:

- TDC has already published its housing needs of the area and locally this has been well above the proportion of the district and infrastructure needs are not being published or planned.
- Manningtree Lawford and Mistley is a 'smaller urban settlement' in the Tendring Local Plan.
- Policy SPL1 suggests that 520 new houses would be fair and proportionate for this area. TDC has already agreed over 1200 new houses in this area. 1200 is already unfair and disproportionate for this area. To agree a further 200 houses would surely be even more unfair and disproportionate.

- This Application is compromised by the fact that it was originally put forward with a substantially lower number of dwellings than is now proposed.
- There is certainly no shortage of planning applications for green field site developments in the Mistley/Lawford/Manningtree area.
- The application offer 30 completed affordable homes out of 500 dwellings. There is no a need for high-priced commuter homes, but rather for attractively designed by affordable homes that will offer a genuine housing alternative for local residents.
- More emphasis should be towards building on brown field sites and not areas of natural beauty.
- Such developments and numbers of houses would be better and more sensibly accommodated within the proposed garden community between Elmstead Market and Colchester or else along the A120 corridor close to Clacton, especially as the A120 is due to be improved.
- The development will lead to further congestion
- Potentially 500 to 1000 extra vehicles will be using local roads
- The development will put the Long Road/Clacton Road/New Road junction which is already busy will be under additional strain
- The 1220 plus car parking spaces that the development would generate illustrates how negative its impact would be on traffic congestion in the area, and especially at Manningtree Station (including access to that) and in the centre of Manningtree.
- Parking is already inadequate at the railway station.
- Proposed parking areas look very tight for the site and this would lead to indiscriminate parking across the site, causing parking elsewhere leading to unsightly parking, dangerous roads, hence angry residents.
- More traffic flow through Lawford, Mistley and Manningtree would pose a serious hazard to residents.
- Crowded roads and narrow pavements would make it extremely dangerous for pedestrians (especially elderly, people pushing prams and the community at Acorn Village)
- Investment and development of local infrastructure must come before additional load is added to existing resources.
- The lack of local shopping facilities and local employment will generate more traffic movements.
- The local primary and secondary schools are both full with no spare capacity to intake new pupils from a development of this scale.
- Existing GP surgeries in Mistley, Manningtree and Lawford are at capacity and have no room for growth. There is no provision to expand, finance and run new healthcare facilities to support this level of growth.

- The hospital is operating at capacity and has been in special measures.
- Schools and local facilities are not within walking distance of the development.
- There is no or limit job opportunities in the local area.
- There is no police presence in the local area
- The local sewage system is overloaded at times and would require significant improvements and investment.
- This is an excessively high density development, out of character with the surrounding area, resulting in a significant urbanising impact.
- This is a series of villages and is not in a position of sustaining such a sudden influx and large increase in population.
- The acreage is good agricultural land and should be conserved for future food production.
- Loss of open spaces
- There will be no gap between the villages Of Mistley and Lawford
- There are several archaeological features on the site.
- This proposal would increase the housing density, hence losing the visual gap that was due to be retained in the previous approved outline scheme. This would have given some sense of a link to the wider countryside from Long Road, but this will now be lost.
- It appears that there will be very narrow fronted properties, houses very close to the street with very small or no front gardens, and properties that are 2.5 storeys high across the site. All of these mean the character of the site will be dramatically out of keeping with the surrounding area.
- The proposed plans show houses backing onto Clacton Road, which would be unattractive and out of keeping.
- This development will fundamentally and irreversibly diminish the historic character of Mistley and Manningtree
- Essex will lose thousands of tourism pounds to Suffolk if it allows Lawford, Manningtree and Mistley to become giant dormitories not only losing their character and uniqueness but lacking the facilities to be viable, which will not fit within this setting and are more appropriate for larger already urban areas.

5.6 In addition to the above 1 letter of support has been received, no reasons for this support have been provided.

6. **Assessment**

The Site

- 6.1 The site lies immediately south of Long Road on the Mistley side of the Mistley/Lawford Parish boundary and borders Clacton Road to east and Dead Lane to the south. The site comprises 23 hectares of arable agricultural land that is roughly square in shape and that rises from its northern boundary but then falls to a relatively flat plateau over the southern part of the site. With limited boundary hedging and vegetation, the site is visually very exposed on entry into the settlement from the south along Clacton Road.
- 6.2 To the west of the site lies open agricultural land that is the subject of separate outline planning application 15/00876/OUT for mixed use development including up to 360 dwellings, details of Phase 1 of this development have been approved under application 17/01527/DETAIL. The northern edge of the site abuts Long Road which passes through the open gap between the built up areas of Lawford and Mistley. To the north of Long Road is an area of open space that falls towards the built up area and which affords long distance views over the built up area and toward the Stour Estuary. The site abuts a small number of dwellings and recently completed care home in Clacton Road to the east and there is further open countryside to the south past Dead Lane.

Planning History

- 6.3 15/00761/OUT granted outline planning permission up to 300 dwellings, up to 2 hectares of employment land (including use classes A2: financial and professional services; A3: restaurants and cafes, B1: business use and D1: non-residential institutions), with associated public open space and infrastructure. As part of this application strategic access points onto Long Road and Clacton Road were approved. All other matters of detail were reserved for a future application, although indicative plans were provided. This consent was granted subject to a number of conditions which included highway works and a S106 agreement which secured the following: financial contribution towards education (early years, primary and secondary); affordable housing in the form of 18 gifted dwellings to be transferred to the Council; provision and transfer of open space together with a maintenance contribution; financial contribution towards healthcare and a financial contribution towards off-site traffic management measures at the A137 railway crossing.
- 6.4 Following the outline consent (15/00761/OUT), a planning application was submitted to vary condition 4 to change the approved parameter plans (17/00534/OUT). The proposed changes under consideration as part of this application were:
- To reduce the overall amount of open space
 - Enlarge the area of land on which homes will be built
 - Apply a height limit across the whole site of 2.5 storeys or 13 metres;
 - Change the position of the proposed employment land; and
 - Move the proposed access point onto Clacton Road further north.
- 6.5 This application was refused by Members of the Planning Committee on the basis that 'substantial boundary and integral landscaping, as well as the sensitive use of varied building heights will be necessary to produce a development to blend with the landscape in scale, colour and design and address the juxtaposition of the built development with the local landscape character of this exposed rural setting. The landscape and building height parameters proposed would fail to ensure that the development would protect the districts landscape as required by policies QL9, EN1, SPL3 and PPL3 cited above'. Reference was also made to the outline consent (15/00761/OUT) as it was considered that this development while providing significantly more landscaping and a more appropriate approach to building heights that would ensure the development related well to its site and surroundings and better protect the distinctive local landscape character. An appeal was submitted against this decision but was then later withdrawn following the approval of 17/01537/OUT.

- 6.6 Application 17/01537/OUT sought to overcome the concerns raised by Members in relation to application 17/00534/OUT which was refused for the reasons set out in the above paragraph. The application (17/01537/OUT) sought to vary condition 4 to change the approved parameter plans. The proposed changes under condition were:
- A nominal reduction in the overall amount of approved open space
 - A nominal enlargement in the approved development area
 - Re-distribution of approved height limits across the site to include buildings between 1 and 2.5 storeys
 - Relocation within the site of the approved employment land
 - The approved access point onto Clacton Road to be moved further north
- 6.7 This application was approved by Members in June 2018, subject to the same requirements as 15/00761/OUT.
- 6.8 In addition to the above a reserved matters application have been granted (17/00535/DETAIL) for Phase 1 of the development for 96 residential dwellings. This approved reserved matter application is in accordance with the parameter plans approved under 17/01537/OUT.

The Proposal

- 6.9 This outline planning application with all matters reserved, other than access, seeks approval for the principle of up to 485 dwellings, up to 2 hectares of employment land (including use classes A2: financial and professional services; A3: restaurants and cafes; B1: business use; B2; B8 and D1: non-residential institutions with associated public open space and infrastructure.
- 6.10 Details of appearance, landscaping, layout and scale are reserved for a future application. However parameter plans have been submitted to confirm the limitations of the reserved matters.
- 6.11 This current application differs from that previously approved (15/00761/OUT) for the following main reasons:
- The number of proposed dwellings has increased from 300 to 500
 - Potential B2 use has been included
 - Potential B8 use has been included
 - Level of landscaping reduced around the boundary of the site
 - New access/egress for commercial area onto Dead Lane
- 6.12 The application is supported by the following documentation:
- Planning Statement, including Statement of Community Involvement and Draft Heads of Terms
 - Design and Access Statement
 - Landscape and Visual Impact Assessment and Addendum
 - Tree Survey, Categorisation Plan and Schedule of Trees
 - Transport Assessment
 - Geo-Environmental Survey
 - Archaeological Desk based Assessment
 - Ecological Assessment
 - Habitat Regulations Assessment

Main Planning Considerations

- 6.13 The main planning considerations are:

- Principle of Development;
- Landscape/Visual Impact;
- Green Gap and Conservation Area;
- Highways, transport and accessibility;
- Flood risk and Drainage;
- Indicative Design and Layout;
- Impact on Neighbours Amenities;
- Ecology;
- Education Provision;
- Health Provision;
- Council Housing/Affordable Housing;
- Open Space;
- Archaeology; and,
- Utilities.

Principle of development

- 6.14 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) are a significant material consideration in this regard.
- 6.15 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy.
- 6.16 As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.
- 6.17 With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices.
- 6.18 The application site is not allocated for development in the adopted Local Plan and it lies outside the settlement development boundary for Manningtree, Lawford and Mistley, with no specific allocation. However, within the Emerging Local Plan the site lies within the settlement development boundary with the south-eastern corner allocation for employment purposes and the northern part of the site (the frontage along Long Road) allocated as Strategic Green Gap.
- 6.19 In applying the guidance within paragraph 48 of the NPPF, the Local Plan has reached a relatively advanced stage of the plan-making process and Officers are of the view that the

proposal is in line with the policies in the NPPF to boost the supply of housing and achieve a balance between economic, social and environmental factors. On this assessment, the allocation of the site for development can carry a reasonable level of weight in the determination of this planning application. The northern part of the site is shown as open space, so the area allocated as Green Gap within the Emerging Local Plan will be retained, together with the employment use situated towards the south east corner of the site, in accordance with Policy SAE2 of the Emerging Plan. It is therefore considered that the principle of development on this site is acceptable,

- 6.20 Furthermore, the Council's ability to demonstrate an ongoing five year supply of deliverable housing sites, in line with paragraph 73 of the NPPF relies on some of the sites allocated for development in the emerging Local Plan obtaining planning permission in the short-term, in order for them to start delivering new homes from the middle part of the plan period. In addition, the site benefits from an extant outline planning permission (15/00761/OUT) for the erection of up to 300 dwellings.

Landscape/Visual Impact

- 6.21 The application site is in agricultural use and the development proposal has the potential to adversely affect the local landscape character and the established trees and hedgerows on the site boundaries.
- 6.22 The applicant has submitted a Landscape and Visual Impact Assessment (LVIA) and an indicative landscape plan that have been considered by the Council's own Principle Trees and Landscapes Officer. The submitted material demonstrates that the development would not give rise to any substantial additional effects compared to those described in the 2015 LIVA.
- 6.23 The design principals have resulted in a layout that is slightly denser in places than the 2015 application and with a change to the layout of infrastructure and open space. However, on balance, the changes do not constitute substantial additional effects when compared to the 2015 application. The density of the development is approx. 21.5 dwellings per hectare, which whilst a higher density than that previously approved on the site is not unreasonable given the character of the area and the inclusion of the site within the Settlement Development Boundary in the Emerging Plan. The proposed heights are 1 to 2 storey across the majority of the site with three clusters of potential 1to 2.5 storey dwellings; one in the centre of the site; one adjacent to the proposed employment area and one towards the western part of the site. 2.5 storey dwellings have already been considered acceptable on the site and in the area proposed Officers consider this acceptable as they are just clusters and would provide variation in height across the site. As this is an outline consent the Council would be entitles to withhold planning permission at reserved matters stage if the height of the development were considered to be inappropriate.
- 6.24 The Councils Tree and Landscape Officer advises that the key to the successful integration of the development into the local landscape and to secure a satisfactory arrangement for the layout of the public realm will be to secure a comprehensive soft landscaping scheme for the whole site. This should be addressed as a reserved matter.
- 6.25 Whilst the character of the location would change considerably, there is scope for a comprehensive package of open space and landscaping that would help to mitigate the visual impact of the development and potentially bring about some environmental enhancements. The applicant has also submitted a Tree Survey and Report that demonstrates, the Officers' satisfaction, that development can take place without harm being caused to the trees and other vegetation on the land.

- 6.26 The proposed works to Pedler's Corner/Dead Lane will be a very noticeable new feature and will result in a high nature of change with substantial effects. However, it is considered that these changes will have a localised impact and will be seen in context of the new development on the site. On this basis it is considered that this change would not be significantly detrimental to the character of the area to warrant a reason for refusal.
- 6.27 Officers conclude that visual and landscape impacts can be adequately addressed through an appropriate landscaping scheme.

Green Gap and Conservation Area

- 6.28 The site does not form part of one of the district's Local Green Gaps as identified in the Council's adopted Local Plan, but within the emerging Local Plan the northern part of the site, along Long Road is allocated as Strategic Green Gap. The parameter plans show that the area allocated as Strategic Green Gap is retained as open space.
- 6.29 The site adjoins the Manningtree and Mistley Conservation Area along both its northern and eastern edge. The open space and landscaping shown has the potential to avoid any detrimental effects on the setting of the Conservation Area, subject to detailed design at a later stage.
- 6.30 The development would not affect the setting of any listed buildings, the nearest of which being at the Acorn Village to the east, off Clacton Road.

Highways, Transport and Accessibility

- 6.31 Where concerning the promotion of sustainable transport, the NPPF in para. 103 states that the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
- 6.32 Paragraph 102 of the NPPF requires Councils, when making decisions should ensure:
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
 - b) safe and suitable access to the site can be achieved for all users; and
 - c) 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.
- 6.33 Policy QL2 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including walking, cycling and public transport. The application site is within walking distance of the convenience store, the primary school and bus stops, as well as the railway station with services to and from Clacton, Colchester and beyond. For a rural location, the site offers a reasonable level of accessibility which is reflected in Alresford categorisation as a Rural Service Centre in the emerging Local Plan.
- 6.34 Policy TR1a in the adopted Local Plan requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy CP1 in the emerging 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.

- 6.35 From the comments submitted by the local Town and Parish Councils and a large number of local objectors to the proposal, matters relating to highways, transport and accessibility are of fundamental concern and require careful consideration.
- 6.36 Through this outline application; approval is being sought for two strategic access points; one off Clacton Road and one off Long Road. These points of access have been approved to serve 300 dwellings as part of previous applications. Under this application it is proposed that the employment area would be access from Pedler's Corner/Dead Lane with separate in and out accesses. To facilitate this is it proposed that Pedler's Corner/Dead Lane would be upgraded between the employment area and the junction with Clacton Road.
- 6.37 The Transport Assessment submitted in support of the application concludes that 'the likely quantum of development that could be accommodated across the site within the constraints of the existing and attainable local road network and confirms that the site is suitable to accommodate a mixed residential employment neighbourhood with up to 506 dwellings and up to 2 hectares of employment land'. As part of this application 485 dwellings are proposed plus 2 hectares of employment land.
- 6.38 Essex County Council Highways have been consulted on the application and raise no objection subject to the off-site highway works previously secured by condition which are as follows and the following conditions:
- A priority junction with right turn lane (with two pedestrian refuge islands) in Long Road to provide access to the site.
 - A priority junction off Clacton Road to provide access to the site.
 - Improvements at the A137 Cocks Hill/Long Road/Wignall Street mini roundabout
 - Provision of two new bus stops in Long Road, or upgrade of the stops which would best serve the proposal site
 - A minimum 3 metre wide footway/cycleway along the proposal site's Long Road Frontage
 - Provision of Residential Travel Information Packs
 - No discharge of surface water onto the highway
 - Details of a wheel cleaning facility within the site and adjacent to the egress onto the highway shall be submitted to and approved in writing by the Local Planning Authority
 - Each new residential dwelling shall be provided with 2 vehicle parking spaces and all vehicular parking spaces shall have minimum dimensions of 2.9 metres x 5.5 metres.
 - Any single garages should have a minimum internal measurement of 7m x 3m
 - Any double garages should have a minimum internal measurement of 7m x 6m
 - Any tandem garages should have minimum internal measurements of 12m x 3m
 - Provision of a residential travel plan together with monitoring fee
- 6.39 As the Residential Travel Plan requires a monitoring fee, this will need to be secured by a S106 agreement. As this is an outline application it is unnecessary to impose conditions relating to the number of car parking spaces and their sizes as this will be dealt with as part of any reserved matters application. Furthermore, as works are now proposed to Pedler's Corner/Dead Lane these will also need to be secured by condition and have been included within the recommendation.
- 6.40 As part of the previous outline application for 300 dwellings a contribution of £16,000 towards off-site traffic calming measures was secured; this contribution is still considered necessary and will be secured as part of a S106 agreement.

Flood Risk and Drainage

- 6.41 Part 14 of the NPPF sets out the Government's stance on climate change, flooding and coastal change, recognising that planning plays a key role in, amongst other things, providing resilience to the impacts of climate change. In appropriate development in areas at risk of flooding should be avoided. The site is located within Flood Zone 1; it is therefore a low risk from tidal/fluvial flooding.
- 6.42 The applicant has submitted a Flood Risk Assessment which has been considered by Essex County Council as the authority for sustainable drainage. Essex County Council do not object to the granting of planning permission subject to conditions relating to the submission and subsequent approval of a detailed surface water drainage scheme, a maintenance plan and a scheme to minimise the risk of offsite flooding and prevent pollution during construction.

Indicative Design and Layout

- 6.43 As an outline planning application, detailed design and layout is a reserved matter for future consideration but the Council needs to be satisfied that an appropriate scheme of up to 485 dwellings with associated open space and infrastructure can be accommodated on the site in an appropriate manner. The indicative material submitted in support of the application demonstrates that there is a reasonable prospect of an acceptable scheme being achievable on the site with ample open space.

Impact on Neighbours Amenities

- 6.44 Paragraph 117 of the NPPF states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 6.45 Whilst matters of layout and scale are reserved for future determination, with regard to privacy, the Essex Design Guide states that "with rear-facing habitable rooms, the rear faces of opposite houses approximately parallel, and an intervening fence or other visual barrier which is above eye level from the potential vantage point, a minimum of 25 metres between the backs of houses may be acceptable". It goes on to state that "where new development backs on to the rear of existing housings, existing residents are entitled to a greater degree of privacy to their rear garden boundary, and therefore where the rear faces of the new houses may not encroach any closer than 15 metres to an existing rear boundary, even though with a closer encroachment 25 metres between the backs of houses would still be achieved".
- 6.46 The distances between new and existing dwellings could be well in excess of those required by the Essex Design Guide and Officers consider that there are no reasonable grounds for refusal in terms of the relationship between existing dwellings in the locality and the proposed development. Consequently, adherence to these standards would ensure that the living conditions of existing residents would be protected from overlooking; and a loss of outlook and daylight/sunlight.

Ecology

- 6.47 One aim of sustainable development should be to conserve and enhance the habitats and species on site. This is reflected within NPPF paragraph 170 which recognises that the planning system should contribute to and enhance the natural and local environment by, amongst other things: protecting and enhancing sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); recognising the wider benefits from natural capital and ecosystem

services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland; and minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

- 6.48 The PPG highlights that section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by government in its Biodiversity 2020 strategy.
- 6.49 The applicant has prepared and submitted a Phase 1 Ecological Report that has identified that the site margins support: an active badger sett; habitat suitable for reptiles, terrestrial-phase great crested newts, and nesting birds; and one mature tree with bat roost potential. Any significant risk of great crested newt presence on site has now been scoped out following further survey work. It has been concluded that great crested newts are likely to be absent from site due to: the limited availability of on-site terrestrial habitats suitable for great crested newts; the poor HSI ratings for most offsite water bodies, and; the weak habitat connectivity and substantial distances between onsite habitats and offsite water bodies. Based on the current site proposals, the risk of impacts upon badger, reptiles and the tree with bat roost potential have been confirmed as low.
- 6.50 In conclusion, the impact on biodiversity is expected to be low and through the landscaping proposals and recommended mitigation measures, the ecological value of the site could actually be enhanced. Officers consider that these measures are acceptable, would ensure compliance with the policies in the Local Plan.
- 6.51 Based on the information provided in support of the application, and with the inclusion of conditions, it is Natural England's view that the proposal is unlikely to have a significant effect on the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site, the Essex Estuaries Special Area of Conservation (SAC) and the Colne Estuary SPA and Ramsar site. They also consider that it is unlikely to adversely affect the Stour Estuary, Cattawade Marshes and Colne Estuary Sites of Special Scientific Interest (SSSIs). Natural England have also requested a financial contribution towards the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (*RAMS*). For this to be considered reasonable it needs to meet the relevant tests in the NPPF i.e. it needs to be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. At this time it is clear that Natural England are not at a stage where specific projects and amounts can be identified. Therefore it is considered that the request for a financial contribution does not meet the required tests and therefore it would be against national policy to request such a contribution.

Education Provision

- 6.52 NPPF paragraph 94 states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should give great weight to the need to create, expand or alter schools; and work with schools promoters to identify and resolve key planning issues before applications are submitted.

- 6.53 Policy COM26 of the adopted Local Plan and Policy PP12 of the draft Local Plan require the impacts of development on education provision to be addressed at a developer's costs, either on site and/or through financial contributions.
- 6.54 Essex County Council have been consulted on this application and advise that on the basis of 485 houses all being 2 or more bedrooms, a development of this size can be expected to generate the need for up to 45 Early Years and Childcare (EY&C) places, 150 primary school, and 100 secondary school places. To address these requirements, ECC has requested contributions of £633,754 for Early Years and Childcare; £1,852,797 for primary provision and £1,876,465 for secondary provision.

Health Provision

- 6.55 NPPF paragraphs 91 and 92, amongst other things, state that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Planning decisions, in turn, should aim to achieve places which promote opportunities for meetings between members of the community, by planning positively for the provision and use of shared space, community facilities.
- 6.56 Policy COM24 of the adopted Local Plan and Policy HP1 of the draft Local Plan support developments for new and improved health care facilities that are in close proximity to the communities they intend to serve, acceptable in highways terms, accessible by a variety of transport modes and provide sufficient car parking; and require financial contributions towards new or enhanced health facilities where new housing development would result in a shortfall or worsening of health provision.
- 6.57 The proposed development is likely to have an impact on the services of 2 GP practices operating within the vicinity of the application site. The GP practice do not have capacity for the additional growth resulting from this development which could generate approximately 1,100 residents and subsequently increase demand upon existing constrained services. The development would give rise to a need for improvements to capacity, in line with emerging CCG Estates Strategy, by way of extension, reconfiguration, refurbishment or potential relocation for the benefit of the patients at The Lawford Surgery, a proportion of the cost of which would need to be met by the developer.
- 6.58 A developer contribution will be required to mitigate the impacts of this proposal. NHS England calculates the level of contribution required, in this instance to be £173,485.
- 6.59 In terms of secondary hospital provision, the NHS is responsible for investment that will ensure the growing population is properly served. The Council cannot refuse planning permission for major residential developments in response to local concerns about facilities at Colchester General Hospital, particularly as house building is a key government objective alongside the modernisation of the NHS.

Council Housing/Affordable Housing

- 6.60 Paragraph 62 of the NPPF requires LPAs where they have identified that affordable housing is needed, to set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities.
- 6.61 Adopted Policy HG4 seeks up to 40% of dwellings on large housing sites to be secured as affordable housing for people who are unable to afford to buy or rent market housing, whereas draft Policy LP5 requires up to 30% of new homes on large development sites to be made available to the Council or a nominated partner, at a discounted price, for use as Affordable Housing or Council Housing, subject to viability testing.

- 6.62 There is a high demand for housing in the Mistley area and there are currently 102 households on the housing register seeking a 1 bedroom property, 75 seeking a 2 bedroom property, 43 seeking a 3 bedroom property and 16 seeking a 4 bedroom property.
- 6.63 The site is subject to a S106 agreement with regards to planning application 15/00761. In this S106 agreement, it is agreed that 18 of the 300 homes will be gifted to the Council. This application seeks to expand the site by a further 200 homes. Although the applicant has proposed a pro-rata increase in the number of gifted homes to 30 in total, this is not sufficient to meet demand. As a consequence, this department would like to see 30% (78) of the additional 200 homes be provided on-site as affordable housing. The department would prefer that another registered be sought to take on the extra 60 homes. The requirements of the proposed legal agreement are for 18 units to be gifted and the remainder 60 homes to be provided through a registered provided.

Open Space

- 6.64 NPPF paras. 91 and 92, amongst other things, state that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Policy COM6 of the adopted Local Plan and Policy HP5 of the draft Local Plan require residential developments on sites of 1.5 hectares or more to provide 10% of the site area as public open space.
- 6.65 The quantum of open space proposed is approximately 19% of the site (20.5% of the residential portion of the site), well above the policy requirement for 10% of the open space within a development. This is in addition with financial contributions being made to the Council towards future maintenance and the provision of the play equipment within the site.

Archaeology

- 6.66 Paragraph 184 of the NPPF states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. In determining planning applications, NPPF para. 189 states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Furthermore, para. 192 of the NPPF states that in determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.67 The applicant has undertaken a desk-based archaeological survey of the site and Essex County Council's Archaeologist has recommended that if the application were to be granted permission, a condition be applied to require archaeological trial trenching.

Utilities

- 6.68 National Grid have commented on previous applications to say that there are apparatus close to the site (there is a visibly an overhead line across the site) but offers no specific objections, but requested that they are notified of the Council's decision.

- 6.69 Cadent have advised that below apparatus have been identified as being in the vicinity of the proposed works:
- High or Intermediate pressure (above 2 bar) Gas Pipelines and associated equipment
 - Low or medium pressure (below 2 bar) gas pipes and associated equipment (as a result in is highly likely that there are gas services and associate apparatus in the vicinity).
- 6.70 These are located along Long Road. Cadent have raised no objection but request that informatives are added to any decision.

Conclusion

- 6.71 This is an application for Outline Planning permission, with all matters reserved with the exception of access. The applicant has provided details of how they propose to access the site off Long Road, Clacton Road and Dead Lane; and the Local Highway Authority has no objection to the proposed arrangements. All other matters (Appearance; Landscaping; Layout; and Scale) are reserved.
- 6.72 The principle of residential development in this location is acceptable as the site is located within the Settlement Development Boundary in the Emerging Plan and the parameter plans show that the allocation of Green Gap and Employment in the Emerging Plan are retained. The site also benefits from an extant permission for 300 dwellings.
- 6.73 Whilst the application is outline in form, Officers are content that subject to the imposition of reasonable planning conditions and obligations that the general principle of this level of development on the site is considered acceptable; and is in keeping with both the site's location.

Background Papers

None.

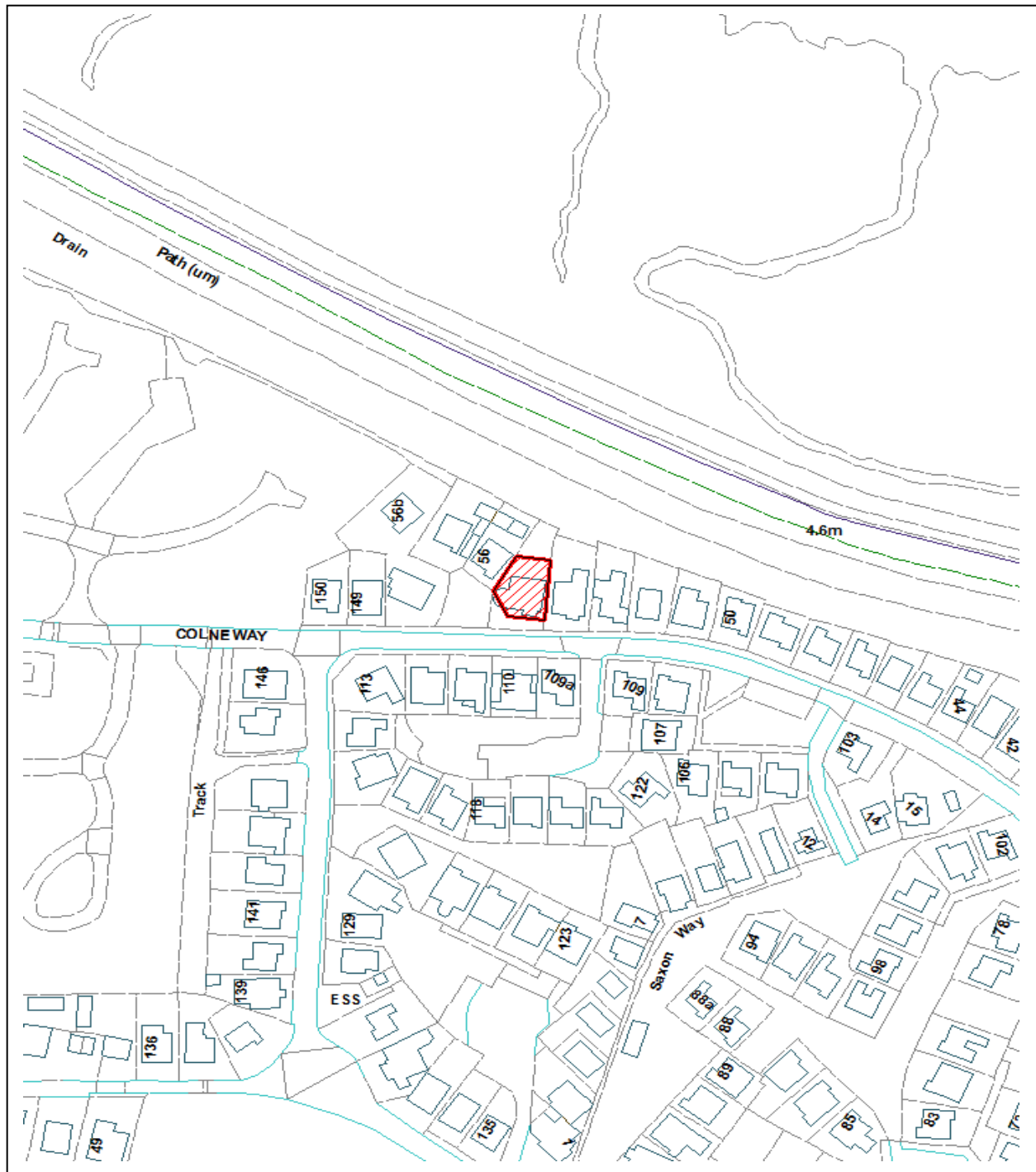
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PLANNING COMMITTEE

13th November 2018

REPORT OF THE HEAD OF PLANNING

A.4 PLANNING APPLICATION - 18/01230/FUL - 55 COLNE WAY POINT CLEAR BAY ST OSYTH CLACTON ON SEA CO16 8LL



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Application:	18/01230/FUL	Town / Parish: St Osyth Parish Council
Applicant:	Mrs Gwendoline Noble	
Address:	55 Colne Way Point Clear Bay St Osyth CO16 8LL	
Development:	Variation of ENE/TEN/119/59 and TEN/1406/88 to allow unrestricted occupation all year round.	

1. Executive Summary

- 1.1 This is a full planning application to remove the existing conditions restricting all year round occupation of this single storey chalet. The chalet is a dwelling but one where the period of occupation is currently restricted to prevent occupation between 1 November in one year and the end of February in the succeeding year.. At present occupation is only allowed between these dates on winter weekends and during a 10 day holiday starting on Christmas Day.
- 1.2 The planning application has been referred to Planning Committee at the request of Councillor Talbot as one of the elected Councillors of Tendring District Council as a ward member.
- 1.3 The application site is situated on Colne Way in Point Clear Bay where it forms part of a large chalet estate mostly constructed between 1961-1964. As constructed the chalets were intended for leisure use but over the years the estate has become residential in character with the majority of the chalets used as a sole or second home. The estate has a complex planning history as explained elsewhere in this report. Most properties are substandard by modern expectations as to location and are within the tidal Flood Zone 3 for Environment Agency purposes. The risk of flooding and coastal change is set to increase with the effects of climate change.
- 1.4 In considering this application it is not just the applicant who needs to be considered but also those who will own use or occupy the premises at a later date. This is an area where the original chalet properties constructed circa 1961 place existing and future residents at a high risk of flooding particularly if climate change results in rising sea levels as projected by the Environment Agency.
- 1.5 Although the extent of coastal change varies according to the extent of climate change a 1 metre rise in sea levels would place around half of the chalet estate permanently under sea water and a 2 metre rise in sea levels would place most of the chalet estate under sea water. Rising sea levels could also increase the number of flood incidents where current sea defences are at risk of being breached. A rise in sea levels may start to cut off access routes from the chalet estate to other parts of Point Clear on higher ground.
- 1.6 Although rising sea levels are a matter for the future some flood models show coastal change in parts of the United Kingdom as soon as 2080. A metre rise in UK sea levels in the period 2080-2099 is now considered possible according to a recent report by the Committee on Climate Change. Therefore a child born in 2018 may see the impact of these changes.
- 1.7 There is no known plan to improve the current sea defences nor any current plan to abandon this coastline to the sea and cease defending it but rising sea levels will ultimately

overwhelm defences if no more is done. Large parts of this chalet estate are below the current sea wall level.

- 1.8 In 2018 it is unlikely that planning applications would be recommended for approval for new build low rise single storey chalets of this height and size. The chalet in this application differs from the replacement dwelling recently granted planning permission at 138 Colne Way as 18/00464/FUL. That is of two storey flood resilient design.
- 1.9 Occupying a holiday chalet in 1961 for a holiday and then returning to a home elsewhere can be contrasted with the current proposal in 2018 where the chalet is the applicant's only or main home and if granted planning permission they will stay there all year round.
- 1.10 When a holiday is interrupted by flooding an occupier will have another home to return to but if this is the occupiers only or main home the consequences of flooding will potentially be more severe and personal. Property damage may prevent an occupier from returning to their home for some time possibly years.
- 1.11 This proposal would be contrary to national and local planning policy and in light of the objection from the Environment Agency it is recommended for refusal.

Recommendation: Refuse

Reason for Refusal: The proposed removal of the condition sought would be contrary to national and local planning policy as

1. It would effectively allow the creation of a new dwelling in Environment Agency Flood Zone 3. As such in the absence of a Flood Risk Assessment the flood risk resulting from the proposed development cannot be fully assessed and no sequential test or exception test can be performed to show the proposed all year round use of the chalet would be safe for its lifetime. In the light of the advice from the Environment Agency that the property is in an area at high risk of flooding due to its situation within Flood Zone 3 the proposal would be contrary to Paragraph 155 of the National Planning Policy Framework ("the NPPF") as development in an area at risk of flooding which is not safe whether now or in the future and which cannot be directed away to an area of lower risk.
2. The property is also in an area where climate change is likely to result in rising sea levels and the proposal cannot be guaranteed to be safe for its lifetime again contrary to Paragraph 155 of the NPPF and in the light of the advice in the UK Marine Policy Statement and paragraph 166 of the NPPF the proposal would leave future occupiers vulnerable to the additional risk of flooding and coastal change resulting from climate change and rising sea levels.
3. Policy QL3 of the saved Tendring District Local Plan 2007 provides that flood risk is to be taken into account in all stages in the planning process to avoid inappropriate development in areas at risk of flooding. Development will only be permitted in areas of flood risk when there are no reasonably available sites in areas of lower flood risk and the benefits of development outweigh the risks of flooding.
4. The entire surrounding area is at high risk of flooding as the holiday dwelling and its area is entirely within Flood Zone 3 and in relation to the removal of the condition its use as a dwelling all year round would give rise to a use which was "highly vulnerable" under the Environment Agency's use system. This would therefore be contrary to policy QL3 of the saved Tendring District Local Plan 2007.

5. The Tendring Local Plan 2007 saved policy COM33 states that in order to minimise the effects of local flooding permission will be refused for development on land to the seaward side of flood defences including the siting of temporary structures such as holiday chalets and caravans. On land between the first line of sea defences and the main defence the siting of temporary structures may be permitted following consultation with the Environment Agency. Time limited occupancy condition will be imposed and enforced preventing occupancy during the winter period from November to March inclusive when the risk of tidal inundation is greatest. Therefore removal of the condition would also be contrary to Policy COM33 of the Tendring Local Plan 2007.
6. Policy ER20 as to occupancy timescales in the Tendring District Local Plan 2007 provides that occupation of chalets may be restricted to the period between 1 March to 31 October every year where the site lacks the necessary and appropriate infrastructure and services for longer occupation or is located in an area of flood risk. Here this holiday dwelling as a chalet both lacks a sustainable location and is in an area of flood risk thus justifying the restriction on its use. Therefore removal of the condition would be contrary to policy ER20 of the saved Tendring Local Plan 2007
7. The Tendring District Local Plan 2013 - 2033 and beyond Publication Draft contains Policy PPL1 on development and flood risk which states all new development in high risk areas should be accompanied by a Flood Risk Assessment. Here none has been provided. Development in high flood risk areas such as Flood Zone 3 must be designed to be flood resilient and to avoid the use of bedrooms at ground floor level. Removal of the condition in this proposal would effectively create a new single storey dwelling in Flood Zone 3 which has not been shown to be flood resilient and involves the use of ground floor bedrooms without an appropriate means of escape. The proposed removal of the condition would therefore be contrary to Policy PPL1 of the Tendring District Local Plan 2013-2033 and beyond Publication Draft.

2. Planning Policy

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

ER20 Occupancy Timescales

COM33 Flood Protection

QL1 Spatial Strategy

QL3 Minimising and Managing Flood Risk

EN1 Landscape Character

EN3 Coastal Protection Belt

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

SP1 Presumption in Favour of Sustainable Development

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

Local Planning Guidance

UK Marine Policy Statement

Status of the Local Plan

2.1 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

2.2 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

2.3 With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

2.4 In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the Council is able to demonstrate a robust five year supply of deliverable housing sites (as confirmed in recent appeal decisions) and housing delivered over the previous three years has been comfortably above 75% of the requirement. There is consequently no need for the Council to consider an exceptional departure from the Local Plan on housing supply grounds and applications for housing development are to be determined in line with the plan-led approach.

3. Relevant Recent Planning History

05/00762/FUL	Alteration to pitched roof to provide more adequate weather proofing and to house cold water tank and storage. Skylight windows to provide ventilation, light and safety.	Refused	28.06.2005
17/02000/LUEX	To allow unrestricted occupation all year round. Currently Appealed	Refused	30.01.2018
18/01230/FUL	Variation of ENE/TEN/119/59 and TEN/1406/88 to allow unrestricted occupation all year round.	Current	

4. Consultations

ECC Highways Dept The Highway Authority observes that Colne Way is classified as a Private Road and therefore does not object to the proposals as submitted.

Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

SMO1 - Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

Environment Agency Thank you for your consultation received on 28 August 2018. We have inspected the application, as submitted, and we are raising an objection in principle to this application on flood risk grounds.

Flood Risk -Our Flood maps show the site lies within the tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is the 'Variation of conditions to allow unrestricted occupation all year round'. Tendring District Council have confirmed that this property is considered to be a holiday home on this basis this variation would raise the development vulnerability classification to 'highly vulnerable'. Development types within the 'highly vulnerable' category under Table 3: Flood risk vulnerability and flood zone 'compatibility' in the NPPG are deemed to be inappropriate development in Flood Zone 3 and should not be permitted. We have met with Tendring District Council (TDC) planning officers in order to discuss the application of Table 2: Flood risk vulnerability classification in the National Planning Practice Guidance (NPPG) of holiday homes in the forms of chalets and park homes intended for permanent residential use. We agreed with the assessment of flood risk vulnerability classification by TDC planning officers. It followed from that agreement that changes of use for such holiday homes

intended for permanent residential use fall within the development types represented by the description 'Caravans, mobile homes and park homes intended for permanent residential use' under the 'highly vulnerable' category in the aforementioned Table 2. Further to the above a Flood Risk Assessment had not been submitted to support this application. An FRA is vital if the local council is to make an informed planning decision. In the absence of an FRA, the flood risk resulting from the proposed development is unknown. The absence of an FRA is therefore sufficient reason in itself for a refusal of planning permission. We take this opportunity to point out the hazard mapping results for the Point Clear Bay Estate area, as set out in the Tendring District Strategic Flood Risk Assessment, show that, among other things, the Hazard Rating would be Extreme and in the event of a breach inundate in 15 minutes. Guidance for Local Council on Safety of Inhabitants - Emergency Flood Plan

An Emergency Flood Response Plan has not been proposed within the FRA, and is necessary to ensure the safety of the development in the absence of safe access and with internal flooding in the event of a breach flood. You are the competent authority on matters of evacuation or rescue, and therefore should assess the adequacy of the evacuation arrangements, including the safety of the route of access/egress from the site in a flood event or information in relation to signage, underwater hazards or any other particular requirements. You should consult your emergency planners as you make this assessment. You should be satisfied with any emergency flood plan submitted and find it adequate for the purposes of the local authority flood plan (for example, possible rescue of inhabitants during a flood, temporary accommodation whilst flood waters subside and properties are inhabitable). If you are not satisfied with the emergency flood plan, then we would recommend you refuse the application on the grounds of safety during a flood event, as users would be exposed to flood hazards on access/egress routes. Other advice: Sequential Test / and Exception Tests

The requirement to apply the Sequential Test is set out in Paragraph 101 of the National Planning Policy Framework. The Exception Test is set out in paragraph 102. These tests are your responsibility and should be completed before the application is determined. Additional guidance is also provided on Defra's website and in the Planning Practice Guidance. Other advice: Other Sources of Flooding

In addition to the above flood risk, the site may be within an area at risk of flooding from surface water, reservoirs, sewer and/or groundwater. We have not considered these risks in any detail, but you should ensure these risks are all considered fully before determination.

5. Representations

- 5.1 St. Osyth P.C. comment that they would possibly support this application, however notwithstanding the approval of similar applications in recent years, together with the many variations of planning permissions imposed on similar properties the Parish Council would request that any decision be deferred until such time as the District Council or Planning Inspectorate gives an overall decision in respect of the ongoing occupancy issues.

6. Assessment

The main planning considerations are:

- Revised National Planning Policy;
- Site Context;
- Proposal;
- Flood Risk;
- Coastal Change;
- Sustainability; and,
- Sustainability for future occupiers.

Revised National Planning Policy

- 6.1 A revised National Planning Policy Framework (NPPF) has appeared in July 2018 before this application was received. It has revised government advice on flood risk and coastal change. It now advises that the policies in marine planning policy documents should be considered for decision taking. In Tendring DC which is part of the South East Inshore area for marine policy there is as yet no adopted local marine plan and therefore reference should be made to the overall UK Marine Policy Statement and its advice instead. This extends to coastline as well as offshore development when coastal change is to be considered. Both policy documents are a material consideration for this application
- 6.2 The revised NPPF now contains a section 14 on flooding climate change and coastal change. Paragraphs 155-164 of the Revised NPPF relate to flood risk and Paragraphs 166-169 as to coastal change. The revised NPPF has altered its advice on Flood risk so that para 155 in the revised NPPF says that development in areas at risk of flooding should be safe and directed away from areas of highest risk (whether existing or future) Therefore making sure that development in high risk areas such as Flood Zone 3 is safe for its lifetime is now a factor.
- 6.3 Determining this application needs to look at the sustainability of the site for future occupiers not just the present one.

Site context

- 6.4 The application site is located in a ribbon development section of Colne Way with similar chalets neighbouring on both sides of the road. The road lacks pavements but there are isolated streetlights. There is off street parking. The chalet would provide a kitchen, living room, bathroom/WC with two bedrooms and a front porch. It is of brick construction but due to its age may not meet modern design requirements as to flood resilience and resistance to hydrostatic pressure.
- 6.5 The site is located within Flood Zone 3 and is protected by current sea defences. However the modelling of Flood Zone 3 assumes that flood defences will fail.

Proposal

- 6.6 This application proposes the removal of the existing condition preventing occupation of the chalet for residential purposes between 1 November in one year and the end of February in any succeeding year, other than on winter weekends or for a 10 day holiday commencing on Christmas Day. The removal of the condition would effectively create a single dwelling which can be used all year round not just by the applicant but by future owners and occupiers.

- 6.7 This would be equivalent to the creation of a new dwelling of this height and design in Flood Zone 3 and an area of future coastal change.

Planning History

- 6.8 The new Condition of TEN/119/59 as amended on appeal on 3rd July 1990 (as to TEN/1406/88) as set out in paragraph 22.9 and 22.10 of the Inspectors appeal decision letter.

- 6.9 This states:

“The chalet may be occupied for residential purposes in each case only during the following periods

- (i) At any time from 1st March to 31st October.
- (ii) At weekends from noon on Friday until noon on Monday between 1 November in any year and the end of February in the following year.
- (iii) During any period of 10 consecutive days which shall include both Christmas Day and New Year’s Day.”

- 6.10 An Application for a Certificate of Existing Lawful Use 17/02000/LUEX has been made to prove that this condition had been breached continuously for over 10 years. This has been refused as technically a Certificate cannot be granted due to past planning enforcement action. The decision has been appealed and the Planning Inspectorate is dealing with the case. A joint Public Inquiry to consider this appeal and other planning enforcement appeals at Point Clear is anticipated in 2019.

- 6.11 Point Clear Bay has a complex planning history but one where in general all year round occupation of chalets has been prevented since 1959. The decision in 1990 is part of that overall history .To understand the situation properties at Point Clear Bay break down into these groups:

- A. Properties built before the start of the Planning control system in 1948. These are often two storey houses. As no Planning Permission was required in the period of construction 1923-1948 there are no planning conditions which are applicable. All year round occupation is thus possible.
- B. Properties built between 1948 - 1957 with Planning Permission issued by the former Tendring Rural District Council on a temporary basis usually with an expiry date in 1957. The numbers of properties in B are difficult to calculate but they are excluded from the Point Clear Bay Chalet Estate as they are built to a different design. They are often found on the sea wall frontage at Point Clear Bay. They too can be two storey dwellings. They too had winter occupation restrictions. The restriction on occupation will have expired as a new planning history started after 1957. In cases where planning history has been examined for subsequent Planning Applications such as Certificates of Existing Lawful Use under the 1990 Act it is noted that the property has remained in use as a dwelling after 1957 without a subsequent application for a new Planning Permission. The former temporary Planning Permission does not contain conditions requiring the use to cease or the building to be removed as the temporary Planning Permission expired. There appears to be no planning enforcement action re these properties in 1957. In 2018 there would be no current restrictions on winter occupation.
- C. Are a group of properties which are chalets often covered by older Planning Permissions dealt with at appeal in 1990 in which a Planning Inspector has quashed enforcement notices in relation to winter occupation and ruled the properties to be

immune from further formal action. The Condition is effectively out of time for enforcement.

- D. Are a group of properties which are chalets also often covered by these older Planning Permissions again dealt with by the same appeal in 1990 in which a Planning Inspector has granted a Planning Permission often on personal hardship grounds on a personal basis to provide that an occupier can reside there all year round during a given period but after which there will be a reversion of planning conditions to a revised winter occupancy condition. These personal permissions have largely expired due to vacation of properties. Only two occupiers with such permission are still at Point Clear Bay. . Certain of these properties are now being occupied all year round by occupiers who do not benefit from the personal permissions and are covered by the revised winter occupancy condition.
- E. Are a group of chalets dealt with at appeal in 1990. These various chalets have had their period of winter occupation changed in 1990 to allow additional occupation during winter weekends and also occupation for a 10 day holiday period starting on Christmas Day. Once again some of these chalets are now occupied all year round.
- F. Relates to chalets built under the 1959 Planning Permissions under which the chalet estate was built which are still not to be occupied between 1st November and 28th February (29th February in leap years) and once again some of these chalets are now occupied all year round without any break in occupation contrary to the 1959 Permissions.
- G. Relates to 2 bungalows built subsequently to 1959 circa 1972, but with similar winter occupation restrictions to the 1959 permissions. One bungalow has had its Planning Permission revised at appeal in 1990 in the same way as group E. The Inspector refers to the bungalow as a chalet in the appeal decision. Both chalets are currently breaching the winter occupancy condition.
- H. Relates to isolated replacement bungalows or chalets replacing former chalets built circa 1975-2000. Once again these are subject to similar winter occupation conditions to the chalets in groups F and G but they may be referred to as a holiday bungalow rather than a chalet.

6.12 This chalet falls within group E. Whatever the position at some other individual chalets it is the case that all year round occupation is limited to a minority of chalets and mostly to those which between 1990-2017 have been able to obtain a Certificate of Existing Lawful Use to prove that winter occupancy conditions have been continuously breached for more than 10 years or the one remaining chalet where occupiers were granted a personal planning permission in 1990. Those with restrictions remain in the majority.

Principle of Development

6.13 In line with Section 38 (6) of the planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the “development plan” unless material considerations indicate otherwise. The requirements of the National Planning Policy Framework (NPPF) 2018 are a material consideration in this regard. In relation to eventual coastal change the NPPF also requires decision making to take account of marine planning policy and therefore the UK Marine Policy Statement is also relevant as a material consideration in this regard.

6.14 The site is outside any defined settlement boundary contained in the saved or emerging local plans. As such it is to be considered part of the countryside and is in an area where the council would resist new housing unless as a flood resilient replacement dwelling.

- 6.15 The site lies in one of the District's Plotland Developments which were laid out and sold for holiday homes in the post-war years. The site is outside of any defined settlement limits with only very basic facilities designed to serve the summer tourist trade. In considering social sustainability, there is no convenient access to proper local services and facilities with poor vehicular access. The nearby settlement of Point Clear scores poorly on sustainability with no primary school, healthcare provision, defined areas of employment, defined village centre and also no railway station. Whilst there is a bus route on Point Clear Road (approximately half a mile from the application site), the site is geographically isolated and its sustainability credentials are significantly outweighed by the lack of the aforementioned services and facilities. Environmentally, the site is located in the Coastal Protection Belt, as covered by Tendring District Local Plan 2007 Policy EN3 and emerging 2013 - 2033 and beyond Publication Draft policy PPL2. Development is not permitted in such areas where there is no compelling functional need. Whether it is compelling is to be decided. The removal of the condition will not have a material visual impact on the Coastal Protection Belt by virtue of the extent of the built form, as that is not proposed to change. Therefore, the removal of the condition would not be harmful visually. Economically, allowing the removal of the condition would be of small benefit, due to the small change in the pattern of occupation for a limited period.
- 6.16 On this basis, the small economic benefit would be significantly outweighed by the social harm and would therefore be in direct conflict with the provisions of the National Planning Policy Framework due to its unsustainable location. Furthermore, although each case is assessed on its merits, removing this condition would set a precedent which would make it more difficult for the Local Planning Authority to resist similar planning applications in this very large area of chalet accommodation which is not suitable for winter occupation, exacerbating the harmful effect on the living conditions in the area.
- 6.17 These matters are however of less importance than flood risk and eventual coastal change.

Flood Risk

- 6.18 The site, and the rest of this part of Point Clear Bay, is in Flood Zone 3 which is the highest area of risk due to its low-lying position on the coast. The NPPF, as supported by relevant policies in the adopted and emerging Local Plans, requires a 'sequential approach' to the location of new development which seeks to direct new development to the locations at lowest risk. In Tendring, there are clearly many locations of lower risk where a single dwelling could be located. Although this is an application to remove a condition the same tests need to be applied.
- 6.19 The Environment Agency within their comments have made reference to the Flood Risk Vulnerability Classification and have stated that the Council may deem that the development proposed to replace a restricted occupation holiday home with a permanent dwelling could elevate the development from 'more vulnerable' to 'highly vulnerable', which would be contrary to national planning policy and as such unacceptable as a matter of principle.
- 6.20 The NPPF and Local Plan policies refer to the 'Exception Test' which must apply if a development in a higher risk area is being considered having undertaken the sequential test. Paragraph 163 of the NPPF (2018) requires such developments to be informed by site-specific flood risk assessment and to demonstrate that:
- within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
 - the development is appropriately flood resistant and resilient;

- it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
 - any residual risk can be safely managed; and
 - safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
- 6.21 No site-specific flood risk assessment has been submitted which, as advised by the Environment Agency, provides sufficient information for the Council to make an informed decision.
- 6.22 The site is currently protected by flood defences with an effective crest level of 4.33m AOD which is above the present-day 0.5% (1 in 200) annual probability flood level of 4.3m AOD. However the Environment Agency for Flood Zone 3 assumes that defences will fail.
- 6.23 The current defences will continue to offer protection but only if the hold the line policy is followed and the defences are raised in line with climate change, which is dependent on future funding. No such proposals are known at this stage.
- 6.24 In the event of sea defences failing it is estimated that the area could flood to between 1 to 3 metres deep in 15 minutes.
- 6.25 No flood resilience measures are proposed as to this application. The Council is simply asked to remove the condition permanently on the basis of the existing property without the installation of any additional measures.
- 6.26 The months when occupation is currently prevented via the condition are those with the highest risk of flooding.
- 6.27 As sea levels rise there will be more chance of severe flood incidents if existing defences are not improved. Actual rises will depend upon the level of global warming.
- 6.28 Policy QL3 of the saved Tendring District Local Plan 2007 provides that flood risk is to be taken into account in all stages in the planning process to avoid inappropriate development in areas at risk of flooding. Development will only be permitted in areas of flood risk when there are no reasonably available sites in areas of lower flood risk and the benefits of development outweigh the risks of flooding.
- 6.29 The entire surrounding area is at high risk of flooding as the holiday dwelling and its area is entirely within Flood Zone 3 and in relation to the removal of the condition its use as a dwelling all year round would give rise to a use which was “highly vulnerable” under the Environment Agency’s use system
- 6.30 The Tendring Local Plan 2007 saved policy COM33 states that in order to minimise the effects of local flooding permission will be refused for development on land to the seaward side of flood defences including the siting of temporary structures such as holiday chalets and caravans. On land between the first line of sea defences and the main defence the siting of temporary structures may be permitted following consultation with the Environment Agency. Time limited occupancy condition will be imposed and enforced preventing occupancy during the winter period from November to March inclusive when the risk of tidal inundation is greatest.
- 6.31 The Tendring District Local Plan 2013 - 2033 and beyond Publication Draft contains Policy PPL1 as follows:

Policy PPL 1

DEVELOPMENT AND FLOOD RISK

All development proposals should include appropriate measures to respond to the risk of flooding on and/or off site and within the Flood Zone (which includes Flood Zones 2 and 3, as defined by the Environment Agency) shown on the Policies Map and Local Maps, or elsewhere involving sites of 1ha or more, must be accompanied by a Flood Risk Assessment. New development in areas of high flood risk must be designed to be resilient in the event of a flood and ensure that, in the case of new residential development, that there are no bedrooms at ground floor level and that a means of escape is possible from first floor level.

All major development proposals should consider the potential for new Green Infrastructure to help mitigate potential flood risk and include such Green Infrastructure, where appropriate.

Proposals must have regard, as necessary, to the following tests:

The Sequential Test

All development proposals will be considered against the National Planning Policy Framework's 'Sequential Test', to direct development toward sites at the lowest risk of flooding, unless they involve land specifically allocated for development on the Policies Maps or Local Maps.

The Exception Test

Where new development cannot be located in an area of lower flood risk and is otherwise sustainable, the Exception Test will be applied in accordance with the National Planning Policy Framework.

- 6.32 This proposal would fail the advice in Policy PPL1 as it fails to show that the removal of the condition would meet the requirements of that Policy.
- 6.33 Policy ER20 as to occupancy timescales in the Tendring District Local Plan 2007 provides that occupation of chalets may be restricted to the period between 1 March to 31 October every year where the site lacks the necessary and appropriate infrastructure and services for longer occupation or is located in an area of flood risk. Here this holiday dwelling akin to a chalet both lacks a sustainable location and is in an area of flood risk thus justifying the restriction on its use.
- 6.34 The applicant has been invited to submit a flood risk assessment in the light of the environment agencies objection but has decided not to do so. Therefore no flood risk assessment has been provided.
- 6.35 The site would not be in an area known to experience flood risk from surface water, reservoirs, sewer and/or groundwater thus satisfying that part of the Environment Agencies comments.
- 6.36 Members will be aware that the area flooded badly in 1953 and that two occupiers of a former shop in the area were killed. The floods reached the ridge height of the shop. These chalets appear to have a lower ridge height than the former shop.
- 6.37 As well as risk of death or injury is the issue of loss or damage to personal property if despite successful evacuation the area is badly flooded. In some cases elsewhere in the country occupiers then have to live in caravans or temporary accommodation for several

years after the flood occurs until properties can be repaired and redecorated. They are not able to return to their properties.

- 6.38 Evacuation away from Point Clear to St. Osyth and main evacuation centres elsewhere only has one route by road and that has to pass over the causeway at St. Osyth Creek near the boatyard. The causeway was cut by flooding in 1953 and again in 1987. This would then leave occupiers of Point Clear stranded on an "island" until such time as floods receded or evacuation can be provided. Although Dumont Hall is available at Point Clear it's not a main evacuation centre. This still leaves occupiers at risk of shortages of food water medication and sanitation and possibly without medical assistance until evacuation can take place.
- 6.39 Although it will be said there has been no serious flood since 1953 the property is in Environment Agency Flood Zone 3a and there the advice is that flood defences may fail with possible flood levels of 1-3 metres deep in 15 minutes. The Environment Agency has objected to this proposal.

Coastal Change

- 6.40 Paragraph 166 of the NPPF advises that in coastal areas planning decisions should take account of the UK Marine Policy Statement. Coastal change should be reduced in its impact by avoiding inappropriate development in vulnerable areas.
- 6.41 The UK Marine Policy Statement advises that coastal change and coastal flooding are likely to be exacerbated by climate change with implications for development on the coast. Inappropriate development should be avoided in areas of highest vulnerability to coastal change and flooding. Account should be taken of the impacts of climate change throughout the operational life of the development.
- 6.42 The Strategic Flood Risk Assessment for the Tendring area predates the latest advice but it suggests that a house in Essex should be assumed to at least have a life of 100 years and possibly more. Therefore a chalet built in 1961 may still be standing in 2061 and possibly 2161.
- 6.43 The impact of coastal change on future occupiers of the premises cannot be ruled out even if the Applicant may not be affected. If the condition is removed permanently future occupiers may be affected. If there are no improvements to sea defences the existing defences will one day be overwhelmed. Without sea defence improvements there will one day be a decision to be taken as to whether Point Clear Chalet Estate is abandoned to rising sea levels if defences are not improved. Most chalets are below sea wall height. The Committee on Climate Change in their recent report on coastal change mentions relocation as one eventual option for communities affected by coastal change.

Sustainability

- 6.44 Paragraph 155 of the NPPF seeks to prevent inappropriate development in areas at risk of flooding now or in the future and where development is necessary in these areas the development should be made safe for its lifetime.
- 6.45 For the above reasons the development could not be guaranteed to be safe for its lifetime as to the unacceptable risk of flooding in Environment Agency Flood Zone 3.

Sustainability for future occupiers

- 6.46 Paragraph 166 of the NPPF advises that in coastal areas planning decision should take account of the UK Marine Policy Statement. Coastal change should be reduced in its impact by avoiding inappropriate development in vulnerable areas.

6.47 For these reasons the long term occupation of the chalet as a dwelling to be used all year round would not be sustainable for future occupiers as for the above reasons the development could not be guaranteed to be safe for its lifetime from the impacts of climate change and eventual coastal change through rising sea levels and the unacceptable risk of associated flooding in Environment Agency Flood Zone 3.

Conclusion

6.48 The removal of the condition sought would be contrary to national and local planning policy. In view of the objection of the Environment Agency the application is recommended for refusal,

Background Papers

None.

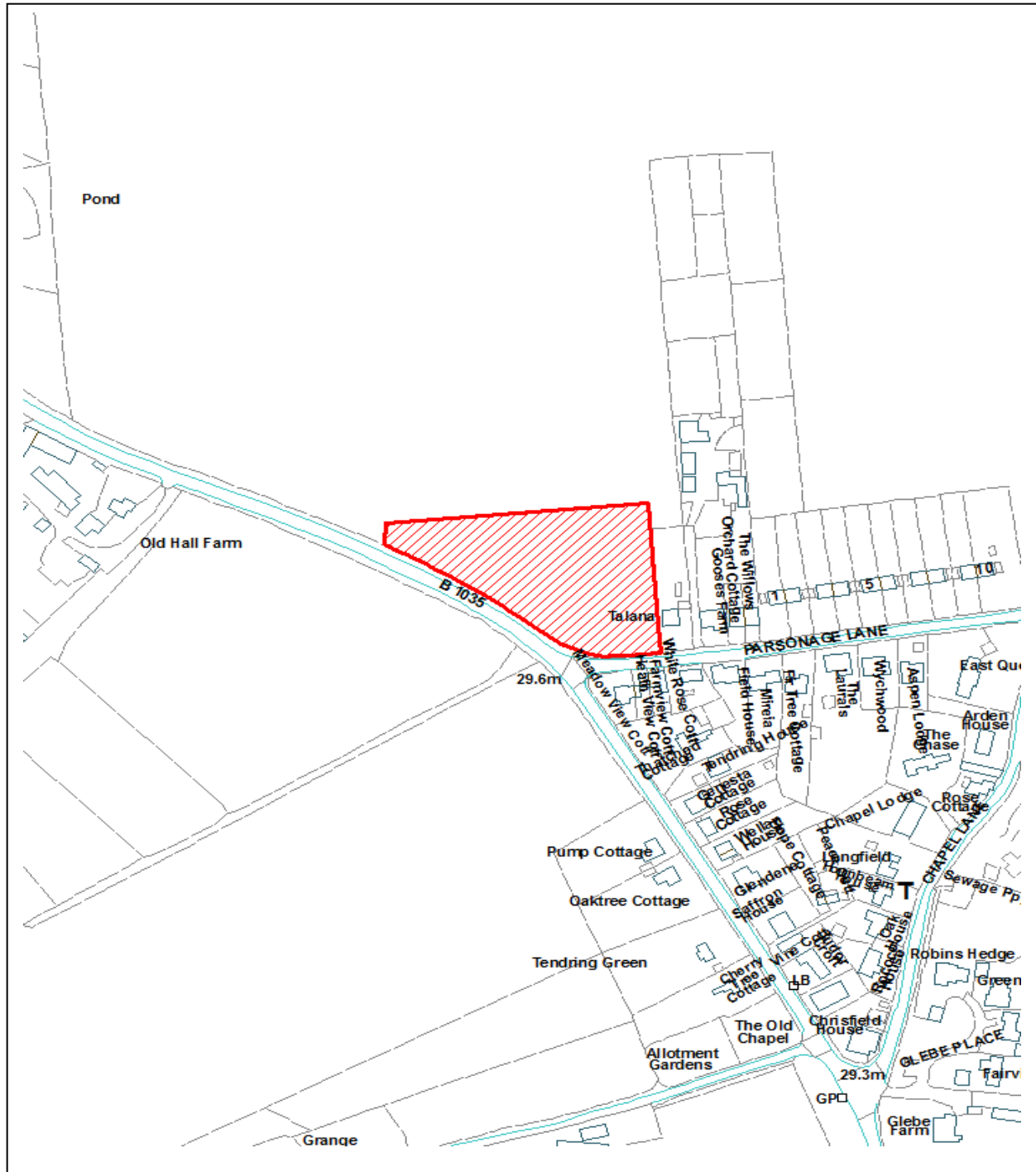
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PLANNING COMMITTEE

13th November 2018

REPORT OF THE HEAD OF PLANNING

A.5 PLANNING APPLICATION - 18/01281/DETAIL - LAND AT THE JUNCTION OF HEATH ROAD AND PARSONAGE LANE TENDRING CO16 0DE



DO NOT SCALE

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Application:	18/01281/DETAIL	Town / Parish: Tendring Parish Council
Applicant:	Marfleet Builders	
Address:	Land at The Junction of Heath Road and Parsonage Lane Tendring CO16 0DE	
Development:	Alternative design to 17/01254/DETAIL incorporating changes to fenestration to all five plots to include removal of triangular windows, insertion of second floor rear Juliette balconies and insertion of rooflights; changes to facing materials on plots; and creation of second floor living accommodation within the roof space of all five plots	

1. Executive Summary

- 1.1 This application is to be determined by the Planning Committee as Councillor Guglielmi and Councillor Coley have called it into Committee due to the proposal creating a negative impact upon urban design/street scene, a negative impact upon neighbours, the third floor addition will create an incongruous, totally unacceptable scheme which is massively out of keeping with neighbouring dwellings.
- 1.2 The application site is located outside the defined Settlement Development Boundary, as defined by the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 1.3 The application proposes an alternative design to 17/01254/DETAIL incorporating changes to fenestration to all five plots to include removal of triangular windows, insertion of second floor rear Juliette balconies and insertion of rooflights; changes to facing materials on plots; and creation of second floor living accommodation within the roof space of all five plots
- 1.4 The proposal will not result in any material harm to visual or residential amenity, or highway safety.
- 1.5 It is noted that permitted development rights have not been removed for the 5 dwellings. Therefore, once the dwellings have been occupied the proposed changes within this application can be implemented under permitted development.

Recommendation: Approve

**Conditions:
Approved Plans**

2. Planning Policy

NPPF National Planning Policy Framework

Tendring District Local Plan 2007

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG9 Private Amenity Space

EN1 Landscape Character

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SD1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL3 Sustainable Design

PPL3 The Rural Landscape

Status of the Local Plan

- 2.1 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 2.2 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.
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- 2.4 In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been

substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the Council is able to demonstrate a robust five year supply of deliverable housing sites (as confirmed in recent appeal decisions) and housing delivered over the previous three years has been comfortably above 75% of the requirement. There is consequently no need for the Council to consider an exceptional departure from the Local Plan on housing supply grounds and applications for housing development are to be determined in line with the plan-led approach.

3. Relevant Planning History

14/01435/OUT	Outline planning application with all matters reserved for the residential development of 0.49 ha of land to create 5 detached dwellings with associated garaging and parking.	Refused	16.01.2015
17/01254/DETAIL	Reserved matters application following outline application 14/01435/OUT (granted at appeal) - 5 detached dwellings with associated garaging and parking.	Approved	10.10.2017
17/01942/DISCON	Discharge of conditions 02 (landscaping to access roads and driveways) and (private drive information) of reserved matters application 17/01254/DETAIL.	Approved	31.05.2018

4. Consultations

N/A

5. Representations

5.1 5 letters of representation have been received raising the following concerns:

- Objection towards the removal of the triangular windows to the rear elevations with the addition of Juliet balconies
- The proposed dwellings are now three storey dwellings which are out of character for the area and will overlook Talana, Gooses Farm and Holly Tree Houses
- Increase in vehicular movement due to the additional bedrooms
- The developer has already installed the Velux windows prior to obtaining planning permission

6. Assessment

The main planning considerations are:

- Site Context and History;
- Principle of Development;
- Proposed Changes; and,
- Impact of Changes.

Site Context

6.1 The site is located on land to the west of a dwelling called Talana at the junction of Parsonage Lane and the B1035.

- 6.2 The site abuts the Settlement Development Boundary (SDB) of the saved local plan to its eastern boundary, but lies outside the SDB in the publication draft local plan.
- 6.3 It is bounded by a hedgerow to the southern and western boundaries, a close boarded fence to Talana to the east, and is open to the agricultural field to the north. Surrounding development comprises detached and semi-detached two storey dwellings to the east and on the opposite side of Parsonage Lane to the south. To the west on the opposite side of the B1035 lies agricultural land behind a hedgerow.
- 6.4 14/01435/OUT was refused by Officers under delegated powers as the site was considered to be socially unsustainable for housing due to the dependence of occupiers using private cars for their day to day needs. Indicative 1 and 2 (on the western half of the site) were also considered to be environmentally unsustainable, projecting beyond the line of existing development on the opposite side of Parsonage Lane. The application was appealed and allowed under reference 15/00049/REFUSE. The Planning Inspector disagreed on both counts finding the site to be socially sustainable in rural standards and environmentally sustainable subject to the retention of the existing hedgerow.
- 6.5 17/01254/DETAIL was approved by Officers under delegated powers for the reserved matters approval for 5 detached dwellings which were allowed at appeal with all matters reserved.
- 6.6 The application was amended from the original submission following concerns raised by the Case officer in relation to the scale, height, detailed design and construction materials.

Principle of Development

- 6.7 The principle of development has been established by the granting of application 14/01435/OUT and 17/01254/DETAIL, of which the later application is an intact permission which could be implemented at any time.

Proposed Changes

- 6.8 The application proposes an alternative design to 17/01254/DETAIL incorporating changes to fenestration to all five plots to include removal of triangular windows, insertion of second floor rear Juliette balconies and insertion of rooflights; changes to facing materials on plots; and creation of second floor living accommodation within the roof space of all five plots.
- 6.9 As the proposed balconies will be situated to the rear elevation of plots 1 – 5, it is considered that they will not cause any impact upon the street scene of Parsonage Lane.
- 6.10 There will be views of the roof lights proposed to the eastern elevation of plots 1 -5 however due to the roof lights being a minor addition; it is considered that they will not cause any significant impact upon the street scene.
- 6.11 The application seeks changes to the facing materials for the following;
- Plot 1 – the secondary gable to be dark cream render instead of warm pink render
 - Plot 2 – the principle gable to be dark cream render instead of white render
 - Plot 3 – principle gable to be pewter boarding instead of brick heather mixture and dark cream render to second gable instead of cream white render
 - Plot 4 – the principle gable to be pewter boarding instead of blue grey boarding
 - Plot 5 – the principle gable to be dark cream render instead of white render
- 6.12 The proposed changes will be visible from the street scene however due to the proposed dwellings being set back from the highway the change of materials are not considered to cause a significant impact.

Impact of Changes

- 6.13 The proposed Juliet balconies to plots 1-5 will not cause any impact upon the neighbouring amenities due to the position of the balconies being to the rear of the dwellings.
- 6.14 The proposed two Velux roof lights are high level meaning that there will be no overlooking or loss of privacy to neighbouring properties from these windows and are for light purposes only.
- 6.15 The proposed material changes are considered to be a minor addition to the plots and although visible to neighbouring dwellings, the proposal will not cause any significant impact in terms of loss of light, privacy or outlook to the neighbouring dwellings.
- 6.16 It is noted that permitted development rights have not been removed for the 5 dwellings. Therefore, once the dwellings have been occupied the proposed changes within this application can be implemented under permitted development.

Conclusion

- 6.17 Overall, the proposed changes are considered to not represent any visual harm or detrimental impacts to the neighbouring amenities.

Background Papers

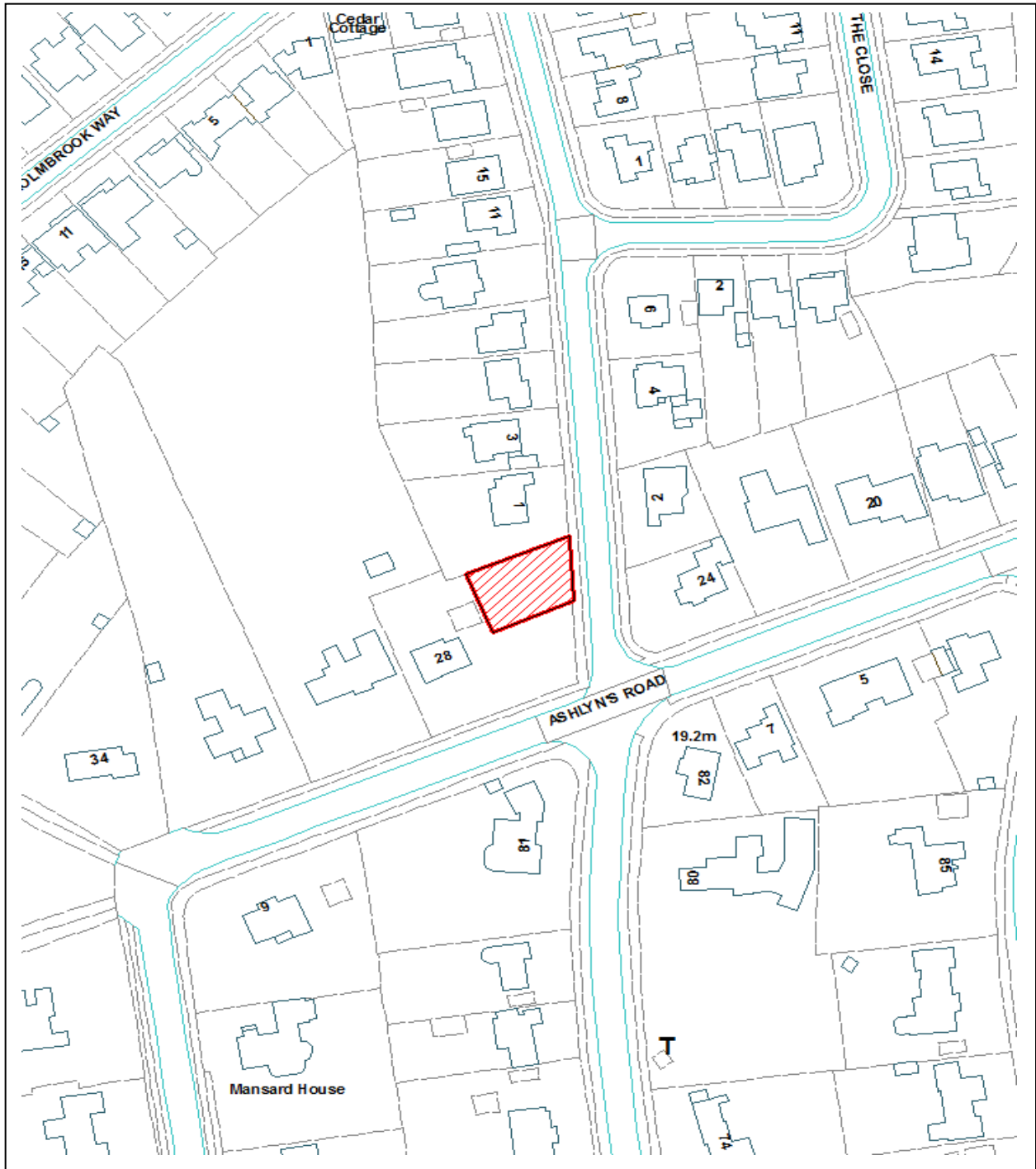
None.

PLANNING COMMITTEE

13th November 2018

REPORT OF THE HEAD OF PLANNING

A.6 PLANNING APPLICATION - 18/01489/FUL - LAND ADJACENT 28 ASHLYNS ROAD FRINTON ON SEA CO13 9EU



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Application:	18/01489/FUL	Town / Parish: Frinton & Walton Town Council
Applicant:	Mr & Mrs Smith	
Address:	Land adjacent 28 Ashlyns Road Frinton On Sea CO13 9EU	
Development:	Proposed dwelling - to incorporate changes to approval 18/00428/FUL.	

1. Executive Summary

- 1.1 The application is before the planning committee as it has been called-in by Councillor N.Turner for the following reasons;
- Garden grabbing;
 - Not in keeping;
 - Not maintaining the heritage asset; and,
 - Reducing the heritage asset by changing its setting in the street.
- 1.2 This application proposes the erection of a two-storey detached dwelling on the site incorporating revisions to the dwelling previously approved by members of the planning committee in May 2018. The revised dwelling is of a very similar design and form to that previously approved but incorporates the following changes;
- the dwelling is increased in depth by 0.95m;
 - dwelling is set back into the plot by a further 0.95m;
 - the insertion of roof lights into the north and rear facing roof slopes to facilitate a playroom/family area; and
 - a reduction in depth of garage to accommodate a utility room resulting in the inclusion of an additional parking space to the front of the property.
- 1.3 The principle of residential development on this site is acceptable as the site is located within the Settlement Development Boundary of Frinton-on-Sea as defined by the Saved Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). The site is also located within the Frinton-on-Sea Conservation Area and the Avenues Area of Special Character.
- 1.4 Officers are satisfied that no material harm to visual amenity, neighbouring amenity or highway safety will result from the revisions to the approved development and the setting of the Frinton-on-Sea Conservation Area and Avenue Area of Special Character is suitably preserved. The application is therefore recommended for approval subject to conditions.

Recommendation: Approve

Conditions:

- **Standard 3 year time limit**
- **List of approved plans**
- **Remove permitted development rights for roof additions, outbuildings and extensions**
- **Construction method statement**
- **No unbound material in first 6m of access**
- **Vehicular parking provided prior to occupation and retained thereafter**

- **No discharge of surface water onto the highway**
- **Details of materials**
- **Hard/Soft landscaping scheme/implementation**

2. Planning Policy

NPPF National Planning Policy Framework

National Planning Practice Guidance

Tendring District Local Plan 2007

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG3 Residential Development Within Defined Settlements

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

EN17 Conservation Areas

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

FW5 'The Avenues' Area of Special Character

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

SPL1 Managing Growth

SPL3 Sustainable Design

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL8 Conservation Areas

PPL12 The Gardens Area of Special Character, Clacton-On-Sea

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.1 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 2.2 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.
- 2.3 With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.
- 2.4 In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the Council is able to demonstrate a robust five year supply of deliverable housing sites (as confirmed in recent appeal decisions) and housing delivered over the previous three years has been comfortably above 75% of the requirement. There is consequently no need for the Council to consider an exceptional departure from the Local Plan on housing supply grounds and applications for housing development are to be determined in line the plan-led approach.

3. Relevant Planning History

13/00741/FUL	Demolish existing detached garage, erect a single storey rear extension and render extension & existing building with rough cast rendering.	Approved	27.08.2013
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14/01128/FUL	Demolish existing garage, erection of single storey rendered rear extension (variation to that approved under 13/00741/FUL), render existing building with rough cast render.	Approved	30.09.2014
16/01229/FUL	Proposed dwelling.	Refused	11.10.2016
18/00428/FUL	Proposed dwelling.	Approved	01.06.2018
18/01489/FUL	Proposed dwelling - to incorporate changes to approval 18/00428/FUL.	Current	

4. **Consultations**

Essex County Council Archaeology	There are no recorded archaeological remains in the immediate area of the above proposed development. Due to the scale and nature of the proposal there is unlikely to be any significant impact on any unknown archaeological deposits. There is no recommendation for any archaeological investigation for the above application.
ECC Highways Dept	No objections.
Tree & Landscape Officer	<p>The main body of the application site is set to lawn and forms part of the residential curtilage of 28 Ashlyns Road. The site boundary is planted with an established hedge comprising of a mixed range of species including Yew and Pittosporum.</p> <p>There are no trees in the main body of the land or within the boundary hedgerow.</p> <p>If planning permission were likely to be granted then a condition should be attached to secure soft landscaping details. The site layout plan shows the retention of the boundary hedge.</p> <p>It would appear that here is sufficient room on the application site to accommodate new tree planting, details of new tree planting proposals should be secured by way of condition.</p> <p>The site is situated within the 'The Avenues Area of Special Character' and consideration should be given to the scale and design of the development and its impact on this special area.</p>
Building Control and Access Officer	No comments at this stage.

5. **Representations**

5.1 Frinton & Walton Town Council recommends refusal for the following reasons;

- Out of keeping with the street scene, over-development of a corner plot which leads to a dangerous access. The covenant which is believed to be on this land should be adhered to.

5.2 The application was called in by Cllr Turner for the following reasons;

- Garden grabbing;

- Not in keeping;
- Not maintaining the heritage asset; and,
- Reducing the heritage asset by changing its setting in the street.

6. Assessment

The main planning considerations are:

- Site Context;
- Proposed Development;
- Planning History;
- Principle of Development;
- Design/Impact upon Heritage Asset;
- Residential Amenity; and,
- Highway Safety.

Site Context

- 6.1 The application site is located on the eastern side of Upper Second Avenue within the settlement of Frinton-on-Sea. The site currently forms part of the side garden to no. 28 Ashlyns Road and is largely laid to grass. The site measures 15 metres in width with an average depth of 23 metres. A mature hedgerow forms the boundary with Upper Second Avenue and returns to part of the Ashlyns Road frontage.
- 6.2 No. 28 Ashlyns Road is a detached property located to the south-west of the site and occupies a 37m wide frontage onto Ashlyns Road with a return frontage of 24m on Upper Second Avenue.
- 6.3 Directly to the west of the site is the detached double garage serving no. 28. To the north is no. 1 Upper Second Avenue, which is a detached house that has two first floor windows facing south across the application site. On the opposite side of Upper Second Avenue is a detached property and further south is a dwelling which occupies the opposite corner plot.
- 6.4 The site is located within the Frinton-on-Sea Conservation Area and the Avenues Area of Special Character. The area is entirely residential in character and the houses forming the street scene are predominantly two-storeys in height and are largely detached dwellings.

Proposed Development

- 6.5 This application proposes the erection of a two-storey detached dwelling on the site incorporating revisions to the dwelling previously approved by members of the planning committee in May 2018.
- 6.6 The revised dwelling is of a very similar design and form to that previously approved but incorporates the following changes;
- The internal depth of the garage has been reduced in order to accommodate a utility room at the rear. This will result in the garage measuring less than the required 3m x 7m dimensions and as such this space cannot be counted as a parking space. As an alternative, provision is made for two parking spaces in front of the garage of a size commensurate with the requirements of the current parking standards.
 - To provide the two parking spaces the building will be moved back 0.95m further from the highway. This will result in the dwelling be positioned more in align with No.1 Upper Second Avenue to the north.

- The building will be increased in depth by 0.95m to provide slightly larger bedrooms. The width of the building remains unchanged. The rear garden is slightly reduced but will still be in excess of the Council's adopted standards at 125sqm in size.
- The roof will remain the same height but to accommodate a family space/playroom in the roof space rooflights to the rear and north facing slopes are proposed. The roof lights will be positioned not less than 1.5m above the finished floor level.

6.7 All other aspects of the development are as previously approved. The existing hedgerow along the road frontage to Upper Second Avenue will not be affected by the development aside from the access.

Planning History

6.8 The land immediately to the side of No.28 Ashlyns Road, which forms land to the south of the application site, was the subject of an application for a detached dwelling (reference 16/01229/FUL) which was refused permission and an appeal subsequently dismissed in June 2017.

6.9 The scheme was refused permission and dismissed on appeal due to the adverse impact of the development reducing the open spacious character of this corner site. While the Inspector was not concerned with the overall size and form of the proposed dwelling, the detailing of the proposed building was considered to be insufficient to reflect the quality of other properties in the Avenues Special Character Area.

6.10 Planning permission was then granted for a dwelling, which overcame the concerns raised above, on a plot fronting Upper Second Avenue by the Planning Committee in May under reference 18/00428/FUL.

Principle of Development

6.11 The site lies within the Defined Settlement Boundary for Frinton-on-Sea, as outlined in the saved Tendring District Local Plan (2007) and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). The principle of residential development is, therefore, acceptable and has been firmly established by the granting of the earlier planning permission for a two-storey property on this plot. Consequently, there cannot be any objection in principle to the erection of a detached dwelling in terms of the character of the location, which is in this area comprises of wholly detached residential properties.

6.12 Rather, the acceptability of what is proposed depends upon the impact of the proposed revisions upon character of the area, amenity and environmental considerations and the various detailed requirements of other local plan policies, standards and guidance designed to ensure that new development relates satisfactorily to its surroundings, without harming amenity, heritage assets or raising highway concerns.

Design/Impact Upon Heritage Asset

6.13 Ashlyns Road and the southern part of Upper Second Avenue are residential roads which form part of The Avenues Area of Special Character as defined in the saved Tendring District Local Plan (2007) and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). The site is also within the Frinton and Walton Conservation Area.

6.14 In this instance it is considered that the proposed revisions to the approved scheme are minor and would not significantly alter the appearance of the property when viewed from public vantage points. The relocation of the property by 0.95m further back into the plot

assists in retaining the open feel of this prominent corner and brings the property more in line with the dwelling directly to the north. Furthermore the increase in the dwelling's depth by 0.95m would not cause any greater impact upon the conservation area setting or the amenities of neighbours than the approved scheme.

- 6.15 The utilisation of the loft space as a playroom/family area does not involve raising the overall ridge height of the approved property and the proposed roof lights are minor in size and are to be situated in the rear and north facing roof slopes which are the least visible. The perimeter hedgerow along Upper Second Avenue is still to be retained apart from where the new access is to be created ensuring that the appearance of the undeveloped corner is to be retained.
- 6.16 The resultant dwelling would therefore still respect the character of the area and the relationship to neighbouring residential properties whilst suitably preserving the heritage asset.

Residential Amenity

- 6.17 The increase in the depth of the dwelling and its set back into the plot would not cause any additional harm to neighbouring residents. The distance to the property to the north at no. 1 Upper Second Avenue and the lack of any windows present in the facing flank ensures that the resident's amenity would be preserved. To the west is the applicant's property at no.28 Ashlyns Road and whilst the property would be sited closer to its rear garden, due to the presence of the existing double garage, the orientation of the property and the degree of separation, any views from the first floor windows serving the proposed dwelling would be out over the rearmost part of the garden serving the applicant's property and not over the most private part of the garden.
- 6.18 The proposed roof lights are to be sited high up with the northern and rear facing roof slopes of the property ensuring that views out are directed upwards and not down into neighbour's gardens. The neighbour's privacy levels therefore remain unaffected by the revisions to the scheme.
- 6.19 The private amenity space serving the proposed property would equate to 125sqm which is still in accordance with the requirements of saved policy HG9.

Highway Considerations

- 6.20 The development does not involve any alterations to the approved access but does involve an amendment to the parking arrangements. Previously the approved development showed the garage measuring 3m x 7m (internal dimensions) which therefore counted as a parking space. The garage is now shown shortened in depth to facilitate a small utility room. Consequently an additional open parking bay is to be provided to the front of the property. The submitted plans show that both spaces measure 5.5m x 2.9m in size and therefore accord with the requirements of the current parking standards.
- 6.21 Essex County Council Highways have confirmed that they have no objections to the revised parking arrangements. The conditions they requested as part of the previous planning permission (i.e. the submission of a construction method statement, no unbound materials in the first 6m of the access and no discharge of surface water to the highway) form part of the recommendation.

Trees/Landscaping

- 6.22 The Council's Tree and Landscaping Officer has identified that the site is largely laid to grass and does not contain any significant trees or vegetation. It is noted that the frontage

boundary hedge will be retained aside for a small section for the vehicular access. There is an opportunity for some additional tree planting to the front of the dwelling and the details of this along with the proposed surface materials for the driveway will be secured through the submission of a hard and soft landscaping scheme.

Conclusion

- 6.23 Officers are therefore satisfied that no material harm to visual amenity, neighbouring amenity or highway safety will result from the revisions to the development and the setting of the Frinton-on-Sea Conservation Area and Avenue Area of Special Character is suitably preserved. The application is therefore recommended for approval subject to conditions.

Background Papers

None.

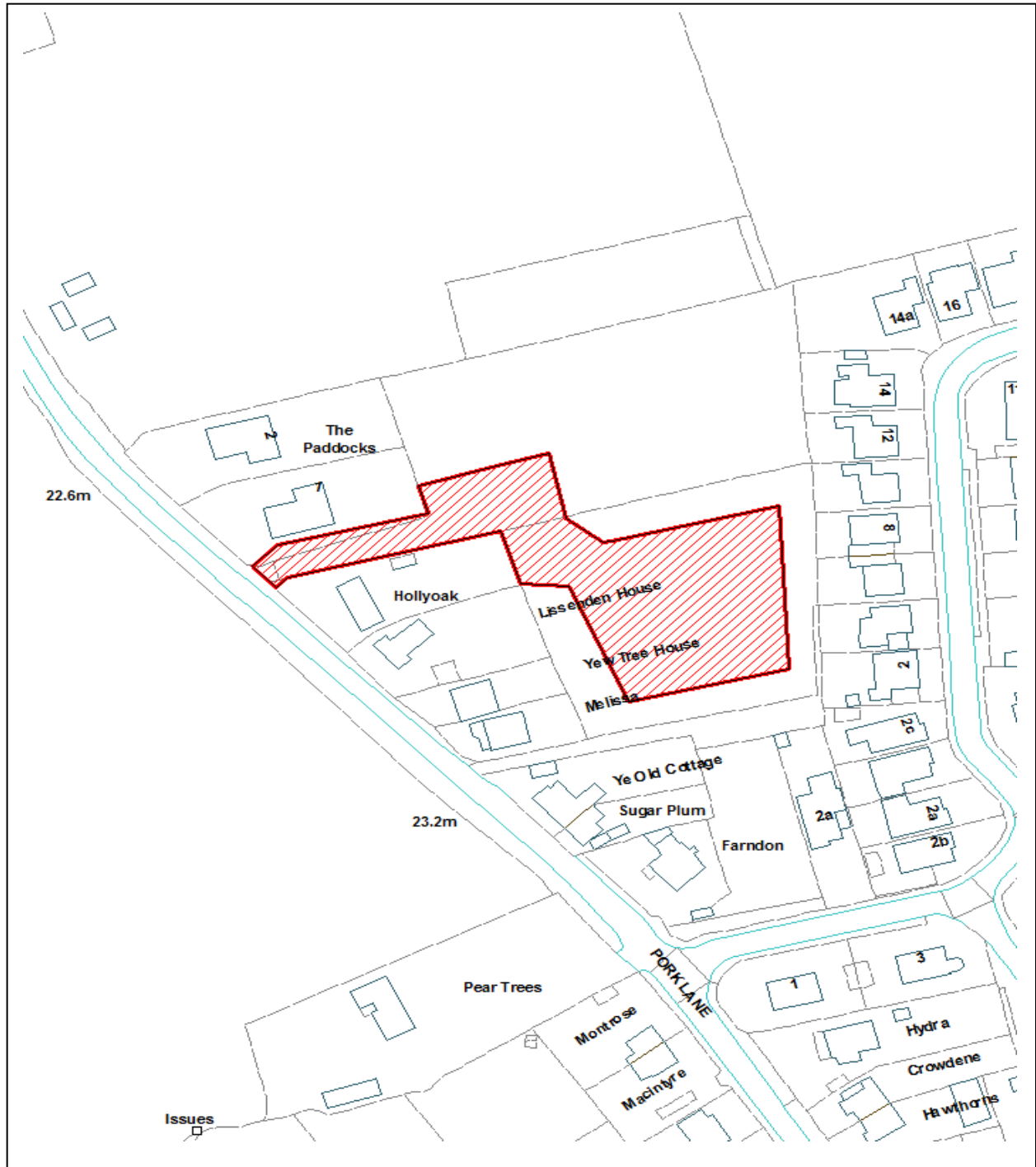
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PLANNING COMMITTEE

13th November 2018

REPORT OF THE HEAD OF PLANNING

A.7 PLANNING APPLICATION - 18/01571/OUT - LAND EAST OF PORK LANE GREAT HOLLAND CO13 0JE



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Application:	18/01571/OUT	Town / Parish: Frinton & Walton Town Council
Applicant:	Mr Candler	
Address:	Land East of Pork Lane Great Holland CO13 0JE	
Development:	Outline application for the residential development of 0.4 hectares of land for up to five bungalows.	

1. Executive Summary

- 1.1 This application is to be determined by the Planning Committee as the site is located outside of a recognised Settlement Development Boundary and is being recommended for approval.
- 1.2 Whilst the site does not fall within a recognised Settlement Development Boundary within the Adopted Tendring Local Plan 2007, the access into the site falls within the Settlement Development Boundary for Great Holland within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft. The remainder of the site falls outside.
- 1.3 The proposal would result in conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site's location beyond the settlement development boundary. However, whilst the NPPF advocates a plan-led approach, it is important to consider whether any circumstances outweigh the conflict. Development should be plan led unless material considerations indicate otherwise.
- 1.4 Therefore, given that the site meets the three strands of sustainability, and that recent appeal decisions demonstrate that a site falling outside of a Settlement Development Boundary is not in itself sufficient to justify refusing applications for proposed development, the principle of development of up to 5 bungalows on this occasion is considered to be acceptable.

Recommendation: Approval

Conditions:

1. Reserved Matters standard conditions;
2. Approved plans;
3. Vehicular access width to be 5.5m throughout;
4. No unbound materials used;
5. Provision of a 2m wide parallel band visibility splay across entire site frontage, which shall connect to and be an extension of the visibility splay for the neighbouring development 17/00333/FUL;
6. Any boundary hedging to be planted a minimum of 1m back from the highway;
7. A vehicular turning facility for service and delivery vehicles;
8. Provision of a communal recycling/bin/refuse collection point;
9. Car parking and turning area for each dwelling;
10. Submission of a Construction Method Statement;
11. Soft landscaping conditions.

2. Planning Policy

NPPF National Planning Policy Framework

National Planning Practice Guidance

Tendring District Local Plan 2007:

EN1 Landscape Character

EN29 Archaeology

HG1 Housing Provision

HG3 Residential Development within Defined Settlements

HG6 Dwelling Size and Type

HG9 Private Amenity Space

HG14 Side Isolation

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

LP1 Housing Supply

LP2 Housing Choice

LP4 Housing Layout

PPL3 The Rural Landscape

PPL7 Archaeology

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.1 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 2.2 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.
- 2.3 With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.
- 2.4 In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the Council is able to demonstrate a robust five year supply of deliverable housing sites (as confirmed in recent appeal decisions) and housing delivered over the previous three years has been comfortably above 75% of the requirement. There is consequently no need for the Council to consider an exceptional departure from the Local Plan on housing supply grounds and applications for housing development are to be determined in line with the plan-led approach.

3. Relevant Planning History

07/00798/FUL	Change of use of agricultural land to paddock with training area.	Withdrawn	19.07.2007
07/01222/FUL	Change of use of agricultural land to paddock with vehicular access, as amended and amplified by drawing no. 4372a-1 Rev A, Certificate of Ownership and agents letter received on 26 September 2007.	Refused	19.10.2007

13/60264/HOUEN Q	Entrance and gate to field.		23.07.2013
15/00777/FUL	Barn for hay and chickens.	Approved	
16/00234/FUL	Proposed barn for hay and chickens.	Approved	30.06.2016
16/01400/OUT	Residential development of 0.2 ha of land to create up to three detached bungalows.	Approved	02.11.2016
17/00333/FUL	2 No. three bedroom detached bungalows with garages.	Approved	05.05.2017
17/00921/DISCON	Discharge of condition 07 (landscaping) of planning permission 17/00333/FUL.	Approved	26.07.2017
17/01270/OUT	Proposed erection of three bungalows.	Refused	25.09.2017
17/01700/OUT	Residential development of 0.3 ha of land to create up to five detached bungalows.	Refused	22.11.2017
17/01763/FUL	Erection of two barns.	Refused	13.03.2018
17/01772/OUT	Proposed erection of three bungalows.	Refused	11.12.2017

4. Consultations

ECC Highways Dept

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

1. Prior to the first occupation of the proposed dwellings, the proposed vehicular access and access road shall be constructed to a width of 5.5m throughout and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

2. No unbound materials shall be used in the surface treatment of the proposed vehicular access or road within 6m of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

3. Prior to the proposed access being brought into use the applicant shall provide a 2.0m wide parallel band visibility splay across the entire sites frontage to Pork Lane which shall connect to and be an extension of the visibility splay for the neighbouring approved development reference 17/00333/FUL which shall be retained and

maintained free from obstruction clear to ground thereafter.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

4. Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.

Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway and to preserve the integrity of the highway, in the interests of highway safety in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

5. Prior to commencement of the proposed development, a vehicular turning facility for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site which shall be retained and maintained free from obstruction thereafter.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

6. Prior to first occupation of the proposed development, a communal recycling/bin/refuse collection point shall be provided within 15m of the highway boundary or adjacent to the highway boundary and additionally clear of all visibility splays at accesses and retained thereafter.

Reason: To minimise the length of time a refuse vehicle is required to wait within and cause obstruction of the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

7. The development shall not be occupied until such time as a car parking and turning area for each dwelling has been provided in accord with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

8. Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of each

dwelling, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

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

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

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

Tree & Landscape Officer

The proposed access to the land from Pork Lane does not contain any trees or other significant vegetation. However the main body of the land is well populated with trees of a mixed age range and species.

The trees are primarily Blackthorn and Hawthorn that have grown as a dense thicket stifling any ground flora. There are three early mature Oaks that have grown taller than the Blackthorn and the Hawthorn. There is also a group of White Poplar which are the largest trees on the site and can be seen from nearby land including Pork Lane and the Public Right of Way (PROW) adjacent to the southern and eastern boundaries of the application site.

Immediately adjacent to the PROW there is Hawthorn hedgerow that has grown into a line of trees that visually form part of the wooded area.

On the northern boundary Goat Willow has become established on the fringe of the wooded area.

In terms of the amenity value of the wooded area it is considered that the limited views and relatively poor quality of the majority of the trees on the land means that none merit formal legal protection by means of a tree preservation order

Although the application is in outline form the applicant has provided a site plan showing that trees on the perimeter of the site will be retained for their screening value. If planning permission were likely to be granted then the strengthening of the retained wooded area could be secure by a planning condition.

5. Representations

- 5.1 Frinton and Walton Town Council recommends refusal as the site application site is located outside of the village envelope and represents backland development. They also raise concerns regarding a shared access for all properties on to Pork Lane.
- 5.2 There have also been 5 letters of objection received, including one from the Local Ward Member, with the following concerns:
- The site lies outside of the village settlement boundary;
 - The proposal is unsustainable;
 - Impacts to local infrastructure;
 - Narrow access point;
 - Will set a precedent for further applications;
 - Impacts to neighbouring amenities;
 - Not in-keeping with existing properties;
 - Flooding issues;
 - Dangerous due to fast approaching traffic along Pork Lane

6. Assessment

Site Context

- 6.1 The application site, which measures 0.4 hectares, is land to the eastern section of Pork Lane within the parish of Great Holland. The application site includes a perimeter fringe of 8m to ensure the trees on the perimeter of the site are retained; otherwise the site is scrub land with a number of mature and semi-mature trees.
- 6.2 The character of the surrounding area is a mixture of rural and urban. The rural character is demonstrated with large areas of open agricultural and grassed land to the north and further to the west particularly. However there are examples of residential development adjacent to the east and west, notably two dwellings recently constructed following planning permission 17/00333/FUL.
- 6.3 Whilst the site does not fall within a recognised Settlement Development Boundary within the Adopted Tendring Local Plan 2007, the access into the site falls within the Settlement Development Boundary for Great Holland within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft. The remainder of the site falls outside.

Proposal

- 6.4 This application seeks outline planning permission for the erection of up to five bungalows.
- 6.5 All matters, namely access, appearance, landscaping, layout and scale, are reserved for a future detailed application.

History

- 6.6 Under planning reference 17/01700/OUT an application for five bungalows on the land adjacent to the north was refused on the grounds that the site fell outside of a recognised Settlement Development Boundary within both the adopted and emerging local plans.

Principle of Development

- 6.7 The site lies adjacent to, but outside of, the Settlement Development Boundary for Great Holland, as defined by the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.
- 6.8 The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 6.9 The Council can demonstrate, with robust evidence, a five-year supply of deliverable housing sites and this has been confirmed in recent appeal decisions. This is based on a housing requirement of 550 dwellings per annum which has been confirmed as sound by the Inspector for the Local Plan examination on 27 June 2018 (Examination of the Strategic Section 1 Plan - Meeting the Need for New Homes (Plan chapter 4)). Therefore policies for the supply of housing are not out of date and applications for housing development are to be determined in accordance with the Local Plan.
- 6.10 Therefore, having regard to the latest housing land supply figures and with the emerging Local Plan progressing well, officers consider that greater weight can be given to Section 3 (Plan-Making) of the NPPF. Under this section, paragraphs 15, 17 and 20 state that the planning system should be genuinely plan-led, must include strategic policies to address local planning authority's priorities for the development and use of land, and should set out an overall strategy for the pattern, scale and quality of housing development.
- 6.11 Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations therefore being in line with the aims of the aforementioned paragraphs 15, 17 and 20 of the NPPF. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.
- 6.12 There would be conflict with Saved Policy QL1 and Emerging Policy SPI1 in terms of the site's location beyond the settlement development boundary. However, while the NPPF advocates a plan-led approach, it is important to consider whether any circumstances outweigh the conflict. Development should be plan led unless material considerations indicate otherwise and it is accepted that the site is not in a preferred location for growth.

- 6.13 In line with Paragraph 8 of the National Planning Policy Framework (2018), achieving sustainable development means meeting an economic objective, a social objective and an environmental objective. Each is assessed below.

Economic:

- 6.14 It is considered that the proposal for five dwellings would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants using the nearby facilities, and so meets the economic arm of sustainable development.

Social:

- 6.15 Within planning appeal decision APP/P1560/W/16/3145830 at a nearby site (Larges Farm, Rectory Road, Great Holland), the inspector highlighted that given the close proximity of a bus stop with frequent and regular buses to larger settlements nearby, including the railway station at Kirby Cross, he was satisfied *“that potential future occupiers of the proposed dwellings would not necessarily be wholly reliant on the use of a car in order to access the services and facilities reasonably likely to be required to meet their residential needs.”*
- 6.16 Therefore, despite Great Holland performing poorly within the Established Settlement Hierarchy (2016), which demonstrates it has no primary school, GP Surgery, defined village centre or railway station, the inspectors view is a material consideration and ensures the site meets the social strand of sustainability.

Environmental:

- 6.17 The environmental role is about contributing to protecting and enhancing the natural built and historic environment.
- 6.18 The development involves the construction of five detached dwellings in a 'backland' location to the rear of the established residential frontage along Pork Lane. With regards to Policy HG13 of the 2007 Local Plan (and echoed in policy LP8 of the draft Local Plan), it states proposals for the residential development of backland sites must comply with the following criteria:
- i. the site lies within a defined settlement development boundary and does not comprise land allocated or safeguarded for purposes other than a residential use;
 - ii. where a proposal includes existing private garden land which would not result in less satisfactory access or off-street parking arrangements, an unacceptable reduction in existing private amenity space or any other unreasonable loss of amenity to existing dwellings;
 - iii. a safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will be discouraged;
 - iv. the proposal does not involve "tandem" development using a shared access;
 - v. the site does not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;

- vi. the site is not on the edge of defined settlements and likely to produce a hard urban edge or other form of development out of character in its particular setting; and
- vii. the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development.

6.19 The main problems that can arise as a result of backland development include undermining the established character of an area (especially if similar schemes were to be repeated elsewhere in a locality); dwelling plots appearing cramped relative to their surroundings; the fragmentation of established gardens with a loss of mature landscaping; and the infringement of neighbouring residents' amenities. Development behind an established building line can also appear incongruous, particularly with isolated dwellings.

6.20 There must also be proper means of access to backland development, which is safe and convenient for both drivers and pedestrians, with a turning area where necessary to avoid the need for vehicles to reverse onto a public highway. A proposed access should avoid excessive disturbance or loss of privacy to neighbouring residents through, for example, an access drive passing unreasonably close to an adjoining dwelling. The likely frequency of use by vehicular traffic and the suitability of the access for service vehicles and the emergency services will also be relevant material considerations.

6.21 In respect of the policy criteria noted above the development is considered to meet the requirements as follows;

(i) - the site is not located within a defined settlement boundary in either the saved and emerging local plans; however is not designated for any particular use;

(ii) – the plans submitted do not include an indicative site layout and this would be a matter to be assessed within a future detailed application; however there is no evidence to suggest the site is not able to meet the necessary private amenity areas or off-street provision for each dwelling, whilst the existing access point will remain.

(iii) - the private access would be located on the northern side of 'Hollyoaks' along Pork Lane. Whilst there will be a slight degree of noise disturbance to occupants of Hollyoaks and the newly constructed dwelling adjacent to the north of the access, the comings and goings associated with five additional dwellings are not considered to be excessive, whilst the access is in situ currently so will result in no visual detriment to the street scene.

(iv) - the proposal does not represent a form of 'tandem development'.

(v) - the site is of a regular shape and would not compromise a more comprehensive development solution.

(vi) – the development of the site would not form a hard urban edge to the settlement as the land is surrounded by residential development to the east, south and west.

(vii) - the development would not set a harmful precedent as the development is not harmful in its own right and each case must be assessed on its own merits. The immediate surrounding area to the east, south and west is dominated by residential built form. The proposed dwellings would represent an infill development within this existing settlement, whilst the development would also not set a harmful precedent.

Recent Appeal Decisions:

6.22 There have been a number of appeal decisions that have demonstrated that an application site being located outside of a Settlement Development Boundary is not in itself sufficient

justification to refuse an application for residential development, some of which are highlighted below.

- 6.23 Within planning reference APP/P1560/W/17/3187802 (Land north of 2 Martins Gate Cottage, Colchester Road, St Osyth) the inspector concluded *“that while there would be some conflict with Policy QL1 of the Local Plan, because the dwelling would be located outside St Osyth’s settlement boundary, this site would be an appropriate location for a dwelling. I therefore find that there would be no unacceptable conflict with the Local Plan.”*
- 6.24 Within planning reference APP/P1560/W/17/3183189 (Site adj Malting House, Station Road, Thorpe-le-Soken) the inspector stated the following: *“that the appeal site is outside a settlement boundary is not a decisive factor in this appeal and the conflict with Policy QL1 carries only limited weight in the planning balance.”*
- 6.25 Further, within planning reference APP/P1560/W/17/3188055 (Land rear of The Laund, Heath Road, Bradfield) the inspector concluded the following: *“I find that the adverse impacts in this case, arising from the location of the appeal site outwith the development boundary for Bradfield, do not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.”*

Conclusion:

- 6.26 Therefore, given the above, in this instance the accessibility of services and facilities and the effect of development on the character of the countryside indicate that the site would provide an appropriate location for housing. There would be some intrinsic conflict with Saved Policy QL1 but this would not manifest itself into any harm in terms of its overall objectives or result in social, economic or environmental harm. Notwithstanding the fact that the Council can demonstrate a 5 year housing land supply there is nothing substantive to suggest the Council’s ability to manage growth through the plan-led approach would be undermined and limited weight should therefore be given to the policy conflict. The principle of residential development is therefore considered to be acceptable.

Layout, Design and Appearance

- 6.27 The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.28 The application is in outline form with all matters reserved and therefore detailed plans do not form part of the determination of this application, and as such no elevational drawings or indicative layout have been submitted. Design within any future application should look to be in-keeping and not detrimental to the character of the surrounding area.
- 6.29 Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of one bedroom should be a minimum of 50 square metres, for a dwelling of two bedrooms should be a minimum of 75 square metres and for a dwelling of three bedrooms or more should be a minimum of 100 square metres. The information that has been supplied does not indicate the number of bedrooms; although there is no evidence to suggest there is insufficient space within the site to ensure there will be enough private amenity space for each of the proposed dwellings.

Impact on Neighbouring Amenities

- 6.30 Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.31 Whilst the application is in outline form with all matters reserved, Officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties or the future occupiers of the proposed dwellings.
- 6.32 Furthermore, as highlighted within the Principle of Development section previously, it is not considered that the additional comings and goings of vehicles associated with five dwellings would be significantly harmful.

Tree and Landscaping Impacts

- 6.33 The proposed access to the land from Pork Lane does not contain any trees or other significant vegetation; however the main body of the land is well populated with trees of a mixed age range and species.
- 6.34 The trees are primarily Blackthorn and Hawthorn, and there are three early mature Oaks that have grown taller than the Blackthorn and the Hawthorn. There is also a group of White Poplar which are the largest trees on the site and can be seen from nearby land including Pork Lane and the Public Right of Way (PROW) adjacent to the southern and eastern boundaries of the application site.
- 6.35 Immediately adjacent to the PROW there is a Hawthorn hedgerow that has grown into a line of trees that visually form part of the wooded area. On the northern boundary a Goat Willow has become established on the fringe of the wooded area.
- 6.36 In terms of the amenity value of the wooded area it is considered that the limited views and relatively poor quality of the majority of the trees on the land means that none merit formal legal protection by means of a tree preservation order
- 6.37 Although the application is in outline form the applicant has provided a site plan showing that trees on the perimeter of the site will be retained for their screening value. If planning permission were likely to be granted then the strengthening of the retained wooded area could be secured by a planning condition.

Highway Safety

- 6.38 Essex County Council Highways have been consulted. They raise no objections subject to conditions relating to the vehicular access width being 5.5m throughout, the use of no unbound materials, the provision of a 2m wide parallel band visibility splay across the entire site frontage, any boundary hedging to be planted a minimum of 1m back from the highway, a vehicular turning facility for service and delivery vehicles, the provision of a communal recycling/bin/refuse collection point, a car parking and turning area for each dwelling and the submission of a Construction Method Statement.
- 6.39 A further condition relating to the storage of bicycles has been requested; however given that there is significant space across the site, this condition is not recommended to be included.

- 6.40 Furthermore, the Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces are required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally.
- 6.41 The plans submitted provide no details; however there is no evidence to suggest the site is not capable of providing the necessary parking arrangements for each dwelling within any future detailed planning application.

Conclusion

- 6.42 The principle of residential development in this location is acceptable and subject to conditions there is not considered to be any visual harm, harm to neighbouring amenities, harm to local landscape or result in highway safety concerns. Therefore the application is recommended for approval.

Background Papers

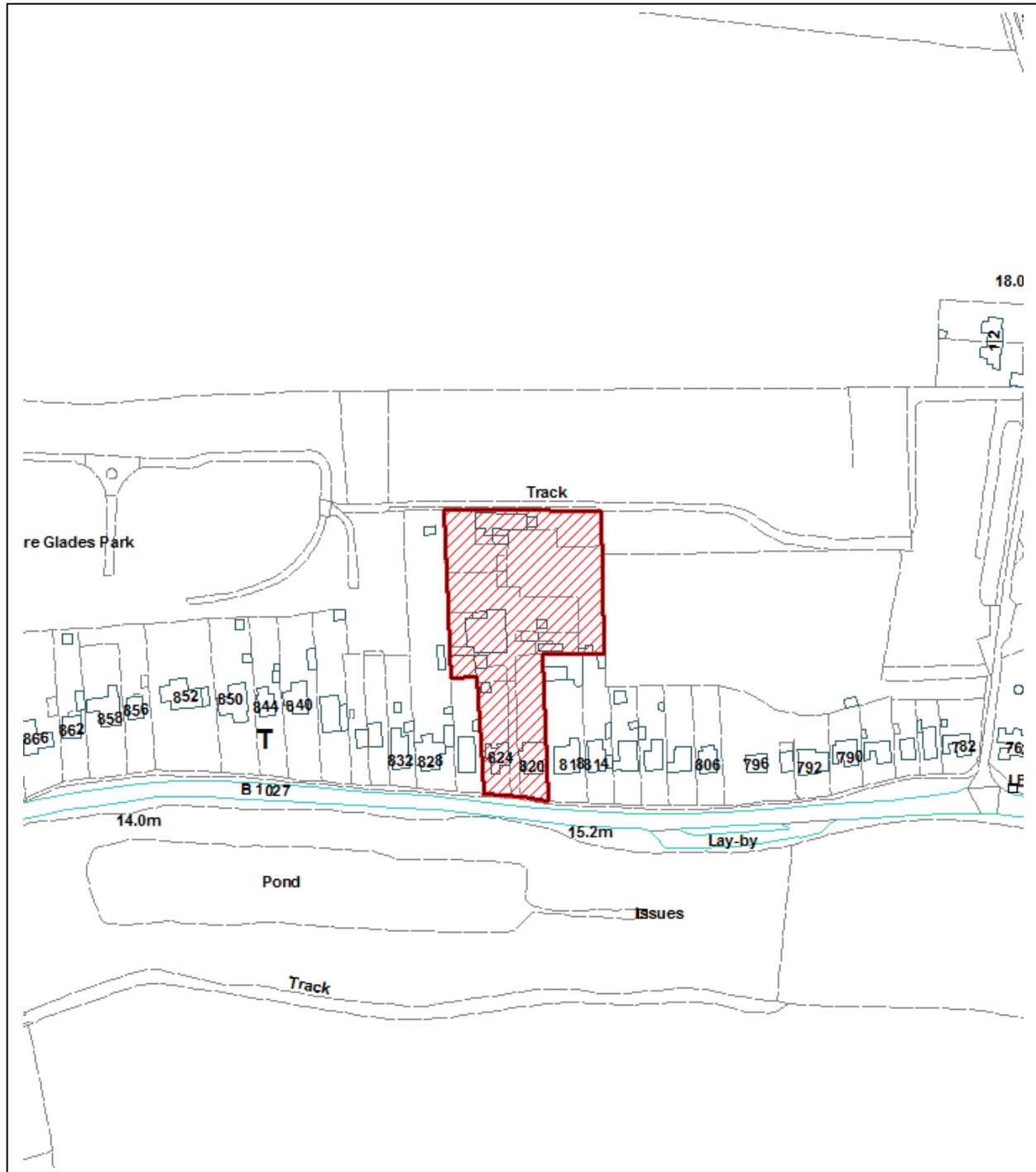
None.

PLANNING COMMITTEE

13th November 2018

REPORT OF THE HEAD OF PLANNING

A.8 PLANNING APPLICATION - 18/00379/OUT - 820 ST JOHNS ROAD CLACTON ON SEA CO16 8BS



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Application:	18/00379/OUT	Town / Parish: Clacton Non Parished
Applicant:	Leisure Fame Ltd	
Address:	820 St Johns Road Clacton On Sea CO16 8BS	
Development:	Outline application for proposed residential development of 11 dwellings including replacement of existing dwelling (following demolition of 824 St Johns Road).	

1. Executive Summary

- 1.1 This application was considered at the last Planning Committee meeting (16th October 2018) where Members resolved to grant planning permission subject to conditions and completion of a S106 legal agreement for public open space and affordable housing. Following the meeting the applicants have decided to reduce the proposal from 14 dwellings to 11 dwellings. The amendments to the report are detailed in bold font for clarity.
- 1.2 This application is referred to Planning Committee as it is contrary to the Development Plan proposing housing outside of the settlement development boundary of the 2007 adopted plan.
- 1.3 The application site lies outside the settlement development boundary of the adopted local plan. However, the site lies wholly within the settlement development boundary of the emerging local plan. This inclusion within the draft settlement development boundary indicates that the Council considers this to be a sustainable location for growth on the edge of the urban settlement of Clacton-on-Sea. Full planning permission has also been granted on appeal (14/00929/FUL) for 14 two storey dwellings on a slightly different site area. That permission expired on 8th July 2018 but is still a strong material planning consideration.
- 1.4 The proposal seeks outline planning permission, with access included for consideration, for 11 dwellings accessed from St Johns Road following retention of number 820 St Johns Road and demolition of number 824 St Johns Road.
- 1.5 The proposal is considered to represent sustainable development with no material harm to landscape character, ecology, residential amenity or highway safety. **The holding objection from ECC SUDs to the surface water drainage strategy was overcome prior to the previous Planning Committee meeting subject to imposition of two conditions. The application is therefore recommended for approval subject to the conditions detailed below. A S106 legal agreement is no longer required because the proposal is for a net increase of ten dwellings, as one of the dwellings represents a replacement for number 824 St Johns Road which is demolished as part of the redevelopment. Since May 2016 contributions cannot be sought from developments of 10 units or less so the proposal is now below the threshold for any S106 contributions.**

Recommendation: Approval

That the Head of Planning be authorised to grant planning permission for the development subject to planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion

considers appropriate).

(i) Conditions:

1. Reserved matters standard conditions
2. Accordance with approved plans in relation to access
3. Construction of the vehicular access
4. Vehicular visibility splays
5. No unbound materials within 6 metres of the highway boundary
6. Closure of existing redundant access
7. Footway width
8. Construction Method Statement
9. Residential Travel Information Packs
10. Bus stop improvements to bus stop opposite 812 St Johns Road
11. Improvements to St Johns Road footpath at site frontage
12. Contaminated Land condition
13. Recommendations of Preliminary Ecological Assessment
- 14. Detailed Surface Water Drainage Scheme**
- 15. Surface Water Drainage Scheme Maintenance Plan**

2. Planning Policy

National Planning Policy Framework (NPPF)

Local Plan

Tendring District Local Plan (2007)

- QL1 Spatial Strategy
- QL2 Promoting Transport Choice
- QL3 Minimising and Managing Flood Risk
- QL9 Design of New Development
- QL10 Designing New Development to Meet Functional Needs
- QL11 Environmental Impacts
- HG1 Housing Provision
- HG3a Mixed Communities
- HG6 Dwellings Size and Type
- HG9 Private Amenity Space
- COM31a Sewerage and Sewage Disposal
- EN1 Landscape Character

- EN6 Biodiversity
- EN6a Protected Species
- EN13 Sustainable Drainage Systems
- TR1a Development Affecting Highways
- TR7 Vehicle Parking at New Development

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

- SP1 Presumption in Favour of Sustainable Development
- SP2 Meeting Housing Needs
- SP4 Infrastructure and Connectivity
- SP5 Place Shaping Principles
- SP6 Spatial Strategy for North Essex
- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL1 Development and Flood Risk
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- CP1 Sustainable Transport and Accessibility
- CP2 Improving the Transport Network

Status of the Local Plan

- 2.1 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the

emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

2.2 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

2.3 With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

2.4 In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the Council is able to demonstrate a robust five year supply of deliverable housing sites (as confirmed in recent appeal decisions) and housing delivered over the previous three years has been comfortably above 75% of the requirement. There is consequently no need for the Council to consider an exceptional departure from the Local Plan on housing supply grounds and applications for housing development are to be determined in line with the plan-led approach.

3. **Relevant Planning History**

14/00929/FUL	Demolition of existing bungalow and other buildings and the creation of 14 no. three and four bedroom houses, plus associated roads, drives, car parking and garages.	Refused	18.11.2014
		Allowed at appeal	08.07.2015

4. **Consultations**

ECC Highways All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all purpose access) will be subject to the Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway by the ECC.

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

1 Prior to the first occupation of the development, the proposed estate road, at its bellmouth junction with St Johns Road shall be provided with 10m radius kerbs returned to an access road carriageway width of 6.0m. straight for at least the first 12m within the site and flanking footways 2m. in width returned around the radius kerbs and connecting to the existing footway network. The new road junction shall be constructed at least to binder course prior to the commencement of any other development including the delivery of materials.

2 Prior to the proposed access being brought into use, vehicular visibility splays of 120m by 2.4m by 120m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

3 Prior to commencement of the proposed development, vehicular turning facilities for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site which shall be retained and maintained free from obstruction thereafter.

4 Prior to first occupation of the proposed development recycling/bin/refuse collection points shall be provided within 15m of the highway boundary or adjacent to the highway boundary and additionally clear of all visibility splays at accesses and retained thereafter.

5 Prior to the first occupation of each dwelling on the proposed development, the individual proposed vehicular access for that dwelling shall be constructed at right angles to the highway boundary and to a width of 3.7m and each shared vehicular access shall be constructed at right angles to the highway boundary and to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

6 No unbound materials shall be used in the surface treatment of the proposed vehicular accesses within 6m of the highway boundary / throughout.

7 The existing access or any part of an access (dropped kerb) rendered redundant or unnecessary by this development shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the re-instatement to full height of the highway verge/footway/kerbing to the specifications of the Highway Authority, immediately the proposed new accesses are brought into use.

8 Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

9 All carriageways should be provided at 5.5m between kerbed footways or 6.0m where vehicular access is taken but without kerbing.

- 10 All footways should be provided at no less than 2.0m in width.
- 11 Prior to the commencement of the proposed development, the applicant shall submit a scheme of off road parking and turning for motor cars for each dwelling in accord with current Parking Standards which shall be approved in writing by the Local Planning Authority. The car parking area shall be retained in this form in perpetuity and shall not be used for any purpose other than the parking of vehicles related to the use of the development and retained thereafter.
- 12 All off street car parking shall be in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.
- 13 Single garages shall have minimum internal dimensions of 7m. x 3m and shall be provided with vehicular doors a minimum width of 2.3m.
- 14 Double garages or cart lodges shall have minimum internal dimensions of 7m. x 5.5m and shall be provided with vehicular doors a minimum width of 2.3m each.
- 15 Prior to the occupation of the proposed development, details of the provision for the storage of bicycles for each dwelling sufficient for all occupants of that dwelling, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.
- 16 Each internal estate road junction shall be provided with a clear to ground level visibility splay with dimensions of 25m by 2.4m by 25m on both sides. Such visibility splays shall be provided before the road is first used by vehicular traffic and shall be retained and maintained free from obstruction clear to ground thereafter.
- 17 No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. wheel and under body washing facilities
- 18 Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of Residential Travel Information Packs for sustainable transport sufficient for the occupants of each dwelling, approved by the Local Planning Authority.
- 19 Prior to the first occupation of any of the proposed dwellings the bus stop almost opposite number 812 St Johns Road shall be improved by the provision of a new shelter to current standards, level entry kerbing, dropped kerbing, new post and flag, timetables, a passenger waiting area (hard standing) any adjustments in levels, surfacing and any accommodation works to the footway and carriageway channel being provided entirely at the

applicant/Developer's expense to the specifications of the Highway Authority.

20 Prior to the occupation of any of the proposed dwellings the footway across the entire sites frontage to St Johns Road shall be extended to a minimum of 2.0m in width or to the extent of the highway and being provided entirely at the Applicant/Developer's expense including new kerbing, surfacing, drainage, any adjustments in levels and any accommodation works to the footway and carriageway channel and making an appropriate connection in both directions to the existing footway to the specifications of the Highway Authority.

TDC Building
Control

No comments at this stage.

TDC Waste
Management

No comments at this stage.

TDC
Environmental
Protection

Due to previous use of the site i.e. waste disposal and historic landfill site. Prior to the commencement of the permitted development, the applicant is advised to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure the land is free from significant levels of contamination. Therefore standard contaminated land condition is to be applied.

In order to minimise potential nuisance to nearby existing residents caused by construction works, Pollution and Environmental Control ask for a construction method statement.

ECC SuDS

Having reviewed the additional information submitted in support of the planning application we do not object to the granting of planning permission based on the following:

Condition 1

No works shall take place until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development.

The scheme should demonstrate compliance with the NSTS and ECC's Sustainable Drainage Systems design Guide, and should include but not be limited to:

- Limiting discharge rates from the site to as close as reasonably practicable to the greenfield runoff rate from the development for the same rainfall event for the 1 in 1 year and 1 in 100 year rainfall events, or to an absolute minimum of 50% betterment on existing runoff rates with reasoning for this approach
- Provide sufficient surface water storage so that the runoff volume is discharged or infiltrating at a rate that does not adversely affect flood risk and that unless designated to flood that no part of the site floods for a 1 in 30 year event, and 1 in 100 year event in any part of a building, utility plant susceptible to water within the development.
- 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 climate change event. Provide details of pre- and post 100 year, 6 hour runoff volume.
- Provision of suitable 'urban creep' allowance
- 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 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.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

Condition 2

No works shall take place until 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, 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.

TDC Open Space

The project and location that the contribution is to be applied to: Bockings Elm. There is currently a deficit of –17.68 hectares of equipped play/open space in Clacton-on-Sea. Due to the significant lack of play facilities in the area it felt that a contribution towards play is justified and relevant to the planning application. The closest play area to the development would be at Bockings Elm, currently this is a small play area that would benefit from some more equipment to cope with any additional development.

Anglian Water Services Ltd

No assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

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

The sewerage system at present has available capacity for these flows. 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.

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on 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 Police

Essex Police would like to see this developer seek to achieve a Secured by Design award in respect of this development. From experience pre-planning consultation is always preferable in order that security and lighting considerations for the benefit of the intended residents and those neighbouring the development are met prior to a planning application. Essex Police is able to support the applicant to achieve appropriate consideration of the requirements and would invite the applicant to contact Essex Police us.

5. Representations

5.1 One letter of objection has been received summarised as follows:

- Concerned road could be extended further rearwards which would result in an unacceptable backland development.
- Road survey was carried out but not in summer months when road is much busier.
- St Johns Plant Centre access causes congestion.
- Land was a landfill previously so likely to be contaminated.
- Should not be higher than the existing barn as most properties fronting the road are bungalows.
- Harm to amenity in terms of road noise and pollution.
- Request a boundary wall along 826 St Johns Road for security and noise reduction.
- Must ensure enough parking to ensure access is clear in an emergency.

6. **Assessment**

The main planning considerations are:

- Principle of development;
- Highway safety;
- Design and visual impact;
- Impact on residential amenity;
- Surface water;
- Legal agreement; and,
- Contamination.

Site location

- 6.1 The application site lies outside the settlement development boundary of the adopted local plan. The emerging local plan includes all the dwellings on the northern side of St Johns Road within the settlement development boundary of Clacton-on-Sea, plus the application site and neighbouring St Johns Plant Centre which both lie to the rear of existing dwellings fronting St Johns Road.
- 6.2 The application site gains access from St Johns Road by demolishing existing dwelling number 824. The site extends northwards and then increases in width to accommodate land associated with number 824 which has a mixture of residential and storage uses with a number of barns and large sheds. To the north-west lies a holiday park, and to immediate eastern boundary lies the rear gardens of number 818 and 814 St Johns Road and a large mature garden. The application site plus additional land to the rear are subject to pending applications 17/00825/OUT and 18/00952/FUL. 17/00825/OUT received a Planning Committee resolution to approve 84 dwellings subject to completion of a S106 legal agreement, however the applicant has stated that proposal is no longer viable. 18/00952/FUL has therefore been submitted for an alternative use of the rear of this site (excluding that subject to this application for 11 dwellings) for 62 holiday lodges in connection with the neighbouring holiday park.

Principle of development

- 6.3 The application site lies outside of any defined settlement development boundary in the 2007 adopted plan. However, the site lies wholly within the settlement development boundary of the emerging local plan. This inclusion within the draft settlement development boundary indicates that the Council considers this to be a sustainable location for growth on the edge of the urban settlement of Clacton-on-Sea.
- 6.4 The Council can identify a five year supply of deliverable housing sites so is no longer automatically expected to approve planning applications for housing that run contrary to the Local Plan, as per the government's 'presumption in favour of sustainable development'.

- 6.5 Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF’s ‘presumption in favour of sustainable development’. The NPPF defines ‘sustainable development’ as having three dimensions: economic, social and environmental and these are assessed below:

Economic

- 6.6 The proposal meets the economic dimension in providing employment through construction of the properties and through future residents supporting local businesses.

Social

- 6.7 The site is located on the edge of the town of Clacton-on-Sea which is the most sustainable settlement type in the District providing a wide range of employment opportunities, public transport links, services and facilities. There is an existing lit footway connecting the site to Clacton and Jaywick and bus stops are only a short walk away. The site is therefore considered to be socially sustainable.

Environmental

- 6.8 The site is not subject to any landscape designations or in close proximity to any heritage assets. The site also does not contain any trees or significant vegetation.
- 6.9 Under previous applications on this land (18/00952/OUT) ECC Archaeology have confirmed that the potential for survival of archaeological remains is considered to be low due to historic quarrying activity and therefore do not recommend archaeological investigation.
- 6.10 A Preliminary Ecological Assessment has been undertaken which confirms that the wider site mainly comprises of overgrown wasteland with frequent piles of waste soil, rubble and general debris. One juvenile common lizard was recorded on the wider site and recommendations include timing and method of site clearance in order to protect any lizards present on site and to allow them to migrate towards the large gardens to the south. With the exception of nesting birds, the site is unlikely to support any other protected species and no further surveys are recommended. Due to the bird nesting season conflicting with the active reptile season it is recommended that immediately prior to commencement of works a check for nesting birds should be undertaken by a suitably experienced ecologist. Any active nests will need to be left in situ until the young have left the nest. Conditions are recommended to ensure these species protection measures are undertaken.
- 6.11 The proposal is for outline planning permission with only access included. However the site is surrounded by built development to the eastern, southern, and western boundaries and forms a logical extension of the existing settlement as shown within the emerging local plan.
- 6.12 Application 14/00929/FUL was refused but allowed at appeal for 14 dwellings on part of the application site and that full planning permission expired on 8th July 2018. The current application covers approximately the same site area but includes the property (retained) and garden of 820 St Johns Road and excludes part of the rear garden of 828 St Johns Road. The appeal permission involved demolition of the existing bungalow at 824 St Johns Road and creation of a long access serving 14 two storey dwellings in a backland location. The principle for backland development in this location has therefore already been accepted.
- 6.13 Saved Policy HG13 and Draft Policy LP8 relate to backland development. This development lies behind the line of existing frontage development on St Johns Road; has

no frontage to an existing public highway; and it does constitute piecemeal development in that it does not form part of a large area allocated for development. Although the site does meet the definition of backland development this does not automatically make it unacceptable. HG13(i) requires backland sites to be within a settlement development boundary which this is not within the saved plan, however it is within the settlement development boundary of the emerging local plan. HG13(iii) and LP8(b) relate to provision of a safe and convenient means of access not likely to cause undue disturbance or loss of privacy and these matters are addressed in the report below under Highway Safety and Residential Amenity and considered acceptable. HG13(ii) and LP8(a) loss of existing garden land and HG13(iv) and LP8(c) tandem development are not relevant in this case. The principle for backland development in this location is therefore acceptable as agreed in the appeal permission.

- 6.14 HG13(v) and LP8(d) require that the site is not awkwardly shaped or fragmented, or difficult to develop in isolation/prejudice a more appropriate comprehensive development solution. Although the shape of the site is slightly irregular it represents a comprehensive development of this rear area of land associated with number 824 St Johns Road within the emerging settlement development boundary. The northern section outside the application site is pending consideration for an extension of the neighbouring holiday park. There is therefore no conflict with HG13(v) and LP8(d).
- 6.15 HG13(vi) and LP8(e) require the site to not be on the edge of defined settlements and likely to produce a hard urban edge or other form of development out of character in its particular setting and saved HG13(vii) and LP8e require the proposal to not be out of character with the area or set a harmful precedent for other similar forms of development. As stated above the proposal would represent a logical expansion of the existing settlement as included within the emerging settlement boundary. The proposed backland development is therefore considered to comply with saved Policy HG13 and Draft Policy LP8.
- 6.16 The proposal is therefore considered to represent sustainable development and the principle of residential development is therefore accepted subject to the detailed considerations below.

Highway Safety

- 6.17 The application seeks outline planning permission with access included for consideration. Number 824 St Johns Road is to be demolished to create a vehicular access serving the 11 dwellings. Detailed plans confirm an access drive of 6 metres wide with 2 metre wide footpaths to both sides. There is a landscaping strip of maximum 7 metres wide along the boundary with the neighbour at 826 St Johns Road.
- 6.18 Number 820 St Johns Road is retained and retains its existing vehicular access and turning area so does not utilise the new access road.
- 6.19 The Highway Authority has no objection to the proposal subject to 20 conditions as detailed in full above. Conditions relating to 1) construction of the access; 2) vehicular visibility splays; 6) no unbound materials within 6 metres of the highway boundary; 7) closure of existing redundant access; 10) footway width; 17) Construction Method Statement; 18) Residential Travel Information Packs; 19) bus stop improvements; and 20) improvements to St Johns Road footpath at site frontage are considered necessary and are all included as recommended conditions.
- 6.20 Condition 3) relates to turning; 4) bin collection points; 5) individual dwelling accesses; 8) estate road layout; 9) carriageway width; 11) parking and turning; 12) parking; 13) garage dimensions; 14) double garage dimensions; 15) bicycle storage; and 16) internal estate

road junctions all of which require formal approval under layout as a reserved matter so do not need to form conditions at this stage.

- 6.21 The proposal for **11** dwellings (one replacement) plus retention of number 820 on this site represents a density of around **16** dwellings per hectare so sufficient space will be available to provide off street parking and turning in accordance with the adopted parking standards.
- 6.22 In relation to highway safety for the appeal approval the Inspector stated “Whilst there would likely be an increase in traffic to and from the site over its current use, no evidence is before me to suggest that it would be harmful to the existing road conditions. Concerns regarding air pollution have not been substantiated.”

Design and visual impact

- 6.23 Appearance and layout are reserved matters so are not for consideration at this stage. The vehicular access which is under consideration incorporates an up to 7 metre wide landscaping strip to the left side with the existing neighbour and retains 820 St Johns Road on the right side of the access drive retaining its independent vehicular access.
- 6.24 Scale was originally included for consideration at this stage but the applicant has chosen to remove this as the final scale is not yet known. Although 14/00929/FUL expired **four** months ago it is still a strong material planning consideration and was extant when this application was submitted in March 2018. In allowing the appeal the Inspector stated “Although bungalows are the dominant property type immediately in front of the appeal site, two-storey properties lie only a short distance to the east. I therefore do not find the character of the area is dominated by bungalows, and that the introduction of two-storey dwellings at the appeal site would not amount to a significant departure from the area’s character and appearance.” Bungalows or two storey houses are therefore acceptable in principle subject to detailed design and overlooking considerations.

Impact on residential amenity

- 6.25 There is ample space within the site to create a layout and detailed design that preserves the amenity of neighbouring residents, and provides adequate private amenity space in accordance with saved Policy HG9. In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works a construction method statement is recommended by condition.
- 6.26 The access drive provides an up to 7 metre wide landscaping strip for the full length of the neighbouring garden at number 826 St Johns Road. An access road was accepted in this location serving 83 of the 84 dwellings with a committee resolution to approve under 17/00825/OUT. Although there will be potential for noise and disturbance from vehicles and, to a lesser extent, pedestrians using the footpath this is to a much lesser extent for **11** dwellings than the accepted 83 dwellings. It is considered that given the significant background noise level along the busy St Johns Road, and the substantial landscaped buffer strip provided, that the impact upon the residential amenities of occupiers of 826 St Johns Road and the retained property at 820 St Johns Road (in the applicant’s ownership) would not be so significant as to justify refusing planning permission on these grounds. The appeal permission (14/00929/FUL) for 14 houses also approved an access drive in this location with around 4 metres landscaped buffer so this proposal represents an improvement in this respect.

Surface water

- 6.27 Paragraph 163 of the National Planning Policy Framework (2018) requires local planning authorities, when determining planning applications, to ensure flood risk is not increased

elsewhere. Paragraph 165 states major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should: a) take account of advice from the lead local flood authority; b) have appropriate proposed minimum operational standards; c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and d) where possible, provide multifunctional benefits.

- 6.28 Although the site is in Flood Zone 1 (low risk), it is a major development and a site-specific Flood Risk Assessment (FRA) is therefore required to assess the potential risk of all potential sources of flooding, including surface water flooding, that might arise as a result of development.
- 6.29 The applicant has submitted a Flood Risk Assessment and surface water drainage strategy which has been considered by Essex County Council as the Local Lead Flood Authority. **The initial 'holding objection' was overcome prior to the previous Planning Committee meeting and ECC SUDS have no objection subject to two conditions which are included within the recommendation.**

Legal agreement

- 6.30 **The previous proposal for 14 dwellings was required to provide for public open space and affordable housing via a section 106 legal agreement. The amended application is for 11 dwellings which includes one replacement dwelling so represents a net increase of ten dwellings. Since May 2016 contributions cannot be sought from developments of 10 units or less so the proposal is now below the threshold for any S106 contributions.**

Contamination

- 6.31 Part of the site was previously used as a refuse tip. Under the appeal application 14/00929/FUL for 14 houses investigations were undertaken which recommended a Phase 2 Intrusive Investigation be completed. That recommendation is endorsed. A contaminated land site investigation and any necessary risk assessment will therefore be required to ensure the land is free from significant levels of contamination.

Conclusion

- 6.32 The proposal seeks outline planning permission with access included for **11** dwellings and is considered to represent sustainable development, within the settlement development boundary of the town of Clacton-on-Sea in the emerging Local Plan. The site area and scale of development proposed are highly comparable to that allowed at appeal under 14/00929/FUL which expired **four** months ago but is still a strong material planning consideration.
- 6.33 Subject to the recommended conditions the application is recommended for approval.

Background Papers

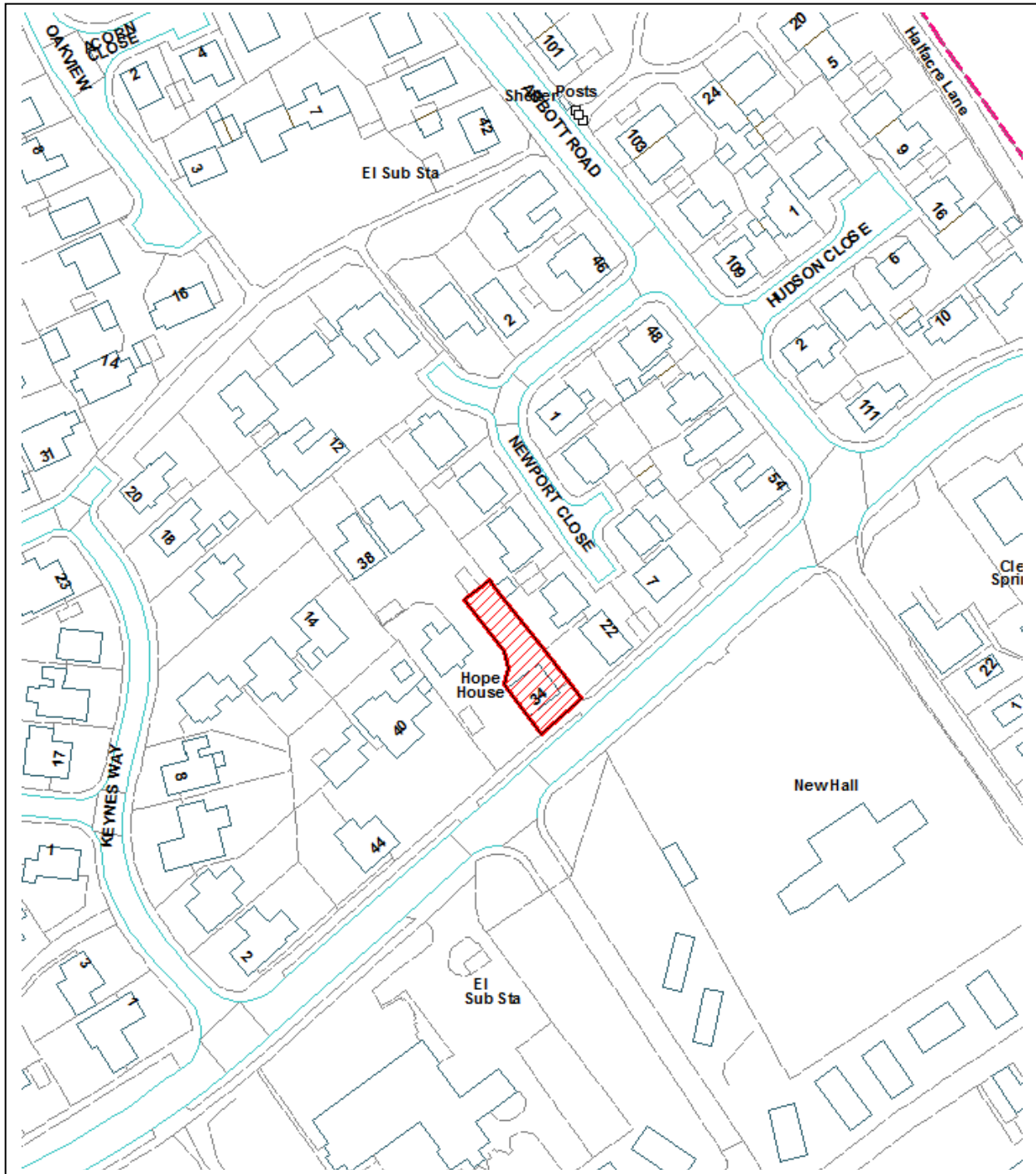
None.

PLANNING COMMITTEE

13th November 2018

REPORT OF THE HEAD OF PLANNING

A.9 PLANNING APPLICATION - 18/01693/FUL - 34 LOW ROAD DOVERCOURT HARWICH CO12 3TS



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Application:	18/01693/FUL	Town / Parish: Harwich Town Council
Applicant:	Mr & Mrs Ivan Henderson	
Address:	34 Low Road Dovercourt Harwich CO12 3TS	
Development:	Proposed single storey side extension.	

1. **Executive Summary**

- 1.1 The application has been referred to Planning Committee as the applicants are Cllr Ivan Henderson who is a County and District Councillor and Cllr Jo Henderson who is a District Councillor.
- 1.2 The application seeks permission for the erection of a single storey side extension 2.7m in width and 5.6m in height at 34 Low road Dovercourt which is sited within the development boundary of Harwich and Dovercourt.
- 1.3 The proposal will be sited to the side of 34 Low Road and will be of a design and size which is appropriate to the existing house refraining it from having a harmful impact to the local areas appearance and character.
- 1.4 The proposal will be noticeable to the neighbouring property to the north east known as "22 Newport Close," however will be sited sufficient distance away from this house. The loss of light and outlook resulting from the proposed development is not deemed so significant to justify refusing planning permission.

Recommendation: Approve

Conditions:

1. Time Limit
2. Approved Plans

2. **Planning Policy**

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG14 Side Isolation

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SPL3 Sustainable Design

Status of the Local Plan

- 2.1 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 2.2 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.
- 2.3 With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

3. Relevant Planning History

05/01741/FUL	4 New Dwellings	Refused	06.12.2005
06/00530/FUL	2 New dwellings.	Refused	17.05.2006
07/01455/FUL	3 new dwellings with detached garages, new access drive and crossover (existing Hope House to be retained).	Approved	14.11.2007
18/01693/FUL	Proposed single storey side extension.	Current	

4. Consultations

None Required

5. Representations

- 5.1 Harwich Town Council have no objections to the proposal.
- 5.2 Two letters of objection have been received which can be summarised below:
- Loss of light due to height of proposal

- Loss of outlook due to height, close proximity and removal of hedge.
- Expanse of brickwork with no landscaping would appear as a “stark feature” and dominate outlook from 22 Newport Close.
- Contrary to Saved Policy HG14 of Tendring District Local Plan 2007.

6. **Assessment**

The main planning considerations are:

- Site context;
- History;
- Proposal;
- Design and Appearance;
- Impact to Neighbours; and,
- Highway Safety.

Site Context

- 6.1 The application site comprises of a south east facing detached chalet bungalow which is of a brick construction with two dormer windows sited to the front of the house. An access serving the properties to the rear is positioned between the host dwelling and its associated garage. The application house has a rear garden which shares boundaries with neighbouring dwellings in Newport Close and Low Road.
- 6.2 The site is located within the settlement boundary of Dovercourt within the Adopted Local Plan 2007 and Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Proposal

- 6.3 This application seeks planning permission for the erection of a single storey side extension 2.7m in width and 5.6m in height.

History

- 6.4 The application site is of a recent construction with planning permission for the erection of 3 new dwellings with detached garages, new access drive and crossover (existing Hope House to be retained), approved under planning permission 07/01455/FUL in 2007.

Design and Appearance

- 6.5 The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.6 Policy HG14 of the Tendring District Local Plan (2007) states that, extensions to dwellings over 4m in height should retain appropriate open space between dwellings and the side boundaries to safeguard the amenities and aspect of adjoining residents. As a guideline a minimum distance of 1 metre will be sought. Where circumstances warrant it, a greater distance will be sought.

- 6.7 The proposal will be sited to the side and therefore a noticeable feature when viewing the property from Low Road.
- 6.8 The proposed extension will be set back from the front wall of the dwelling by 0.45m and from the front of the site by 5m which reduce its prominence within the streetscene.
- 6.9 The proposed extension will be 0.2m lower in height than the host dwelling and will continue the same eaves height as the house to ensure its consistency with the host dwelling. The enlargement will be constructed from materials which match the host dwelling and will incorporate similar design elements such as same roof type and matching openings to ensure its consistency with the main dwelling.
- 6.10 The neighbouring dwelling of 22 Newport Close sited to the north east is orientated away from the dwelling with its rear garden boundary being shared with the application site. The neighbouring dwelling is positioned 9m away from its rear boundary resulting in a large open space being formed between the two properties. Whilst the proposal is contrary to Saved Policy HG14 as a result of the neighbour's house being sited away from the boundary and the proposals narrow width it is considered that suitable open space would be retained between the two properties preventing the new extension from appearing cramped within the streetscene.

Impact on Neighbours

- 6.11 The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.12 Policy HG14 of the Tendring District Local Plan (2007) states that, extensions to dwellings over 4m in height should retain appropriate open space between dwellings and the side boundaries to ensure that new development is appropriate in its setting and does not create a cramped appearance. As a guideline a minimum distance of 1 metre will be sought. Where circumstances warrant it, a greater distance will be sought.
- 6.13 The proposal will not result in a loss of residential amenities to the neighbouring dwellings to the South West or North West of the site as it will be sited sufficient distance away from these houses and screened by the host dwelling.
- 6.14 The application site shares a boundary with 22 Newport Close sited to the east of the site. Currently situated along this boundary is an existing hedge and fencing. The hedge has not been shown on the submitted plans and it is presumed that this will be removed to accommodate the proposal.
- 6.15 The proposal will be sited within 1m to the 22 Newport Close rear boundary appearing as a noticeable feature to this neighbour.
- 6.16 The occupants of 22 Newport Close have provided comments objecting to the scheme stating that the proposal will be of the same height as the existing house resulting in a significant reduction of light and outlook.
- 6.17 The plans show that the proposal will be 0.2m lower in height compared to the host dwelling matching the design of the existing house.

- 6.18 This neighbouring dwelling at 22 Newport Close is sited 9m from its rear boundary with the application site. This neighbour currently has views onto the existing dwellings side elevation, over the existing boundary treatment meaning that the occupants outlook and light is already reduced.
- 6.19 Due to the neighbours position on its plot as well as the proposed extensions reduction in height and similar design to the host dwelling the loss of light and outlook resulting from the proposal would not be so significant to justify refusing planning permission.
- 6.20 The plans show that there are no windows proposed along this side elevation and therefore the proposal would not result in a loss of privacy to this neighbour.

Highway Safety

- 6.21 The application dwelling has an existing garage positioned to the other side of the existing access which serves the houses to the rear. The proposal is to the side of the house away from this garage and would not infringe upon any existing parking arrangements at the site.

Conclusion

- 6.22 In conclusion as the proposal represents no visual harm or significant loss of residential amenities to neighbouring properties it is recommended for approval.

Background Papers

None.