



St John's Plant Centre, St John's Road, Clacton-on-Sea

Proposed residential development

TRANSPORT ASSESSMENT

Prepared by: Entran Ltd

Date: May 2021



WEST OF ENGLAND
TRAVEL PLAN AWARDS
GOLD AWARD



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Revision	Date	Notes	Author	Checked	Approved
V1	Sept 18	First Draft	SOA	RLF	RAF
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1.0 INTRODUCTION

1.1 Overview

- 1.1.1 This Transport Assessment (TA) has been prepared by Entrant Ltd in support of a planning application for the redevelopment of the existing St John's Plant Centre on land adjacent to Earls Hall Drive, Clacton-on-Sea, to provide a new residential development. Full details of the proposed development are contained in section 5 of this report.
- 1.1.2 The site falls within the jurisdiction of Tendring District Council (TDC) who are the local planning authority and Essex County Council (ECC) who are the local highway authority.
- 1.1.3 This TA has been developed following early discussions with the highway authority; it takes account of the comments received as well as local and national guidance.

1.2 Policy and guidance

- 1.2.1 Guidance published by the DfT and the DCLG in 2007 provides advice on the content and preparation of Transport Assessments and Transport Statements. It also assists stakeholders to determine whether an assessment may be required and, if so, what the level and scope of the assessment should be.
- 1.2.2 Previous guidance on the assessment of traffic implications associated with development proposals was contained in the "Guidelines for Traffic Impact Assessment" published by the Institute of Highways and Transportation (IHT) in 1994. Since the IHT guidelines were produced, there has been a significant change in Government policy and general guidance regarding improved sustainability in transport. The fundamental difference between TAs and the old TIAs is that TAs seek to influence modes of travel and assess person-trips rather than vehicle trips, whereas TIAs were based on the principles of "predict and provide" for the private car.
- 1.2.3 The 2007 document brought the Guidance on transport assessment up to date with these changes in Government policy and expanded it to address the assessment of the potential implications of development proposals on the entire transport system.
- 1.2.4 In 2014 DCLG published a suite of Planning Practice Guidance including advice entitled "Travel plans, transport assessments and statements in decision taking". The 2007 guidance has been superseded by the PPG as current government guidance on the transport related effects of development, but many highway authorities still refer to it as useful advice on detailed matters of transport assessment.
- 1.2.5 ECC also has a publication entitled 'Development Management Policies' (Feb 2011) which differentiate between Transport Statements and Transport Assessments (and between Travel Statements and Travel Plans) and set thresholds above which each type of document would be required to support a planning application. Table 1.1 below sets out the highway authority's documentation requirements.

Table 1.1 – ECC's thresholds based on size or scale of land use.

Land use	Transport statement and travel statement required	Transport assessment and travel plan required
C3 residential	TS 25-50 units TA > 50 units	All new residential dwellings will require a Residential Travel Information Pack

- 1.2.6 The ECC guidance therefore requires the proposed development of 180 dwellings to be supported by a Transport Assessment and a Residential Travel Information Pack.

2.0 SITE LOCATION AND DESCRIPTION

2.1 Location

- 2.1.1 The site is located on a land adjacent to Earls Hall Drive, off St John's Road, Clacton-on-Sea. The site is currently occupied by a garden nursery business with glasshouses covering much of the application site. The application red line boundary is included as **Appendix A** and a location plan and aerial view are included below as Figure 2.1 & 2.2 respectively.

Figure 2.1 – Location Plan

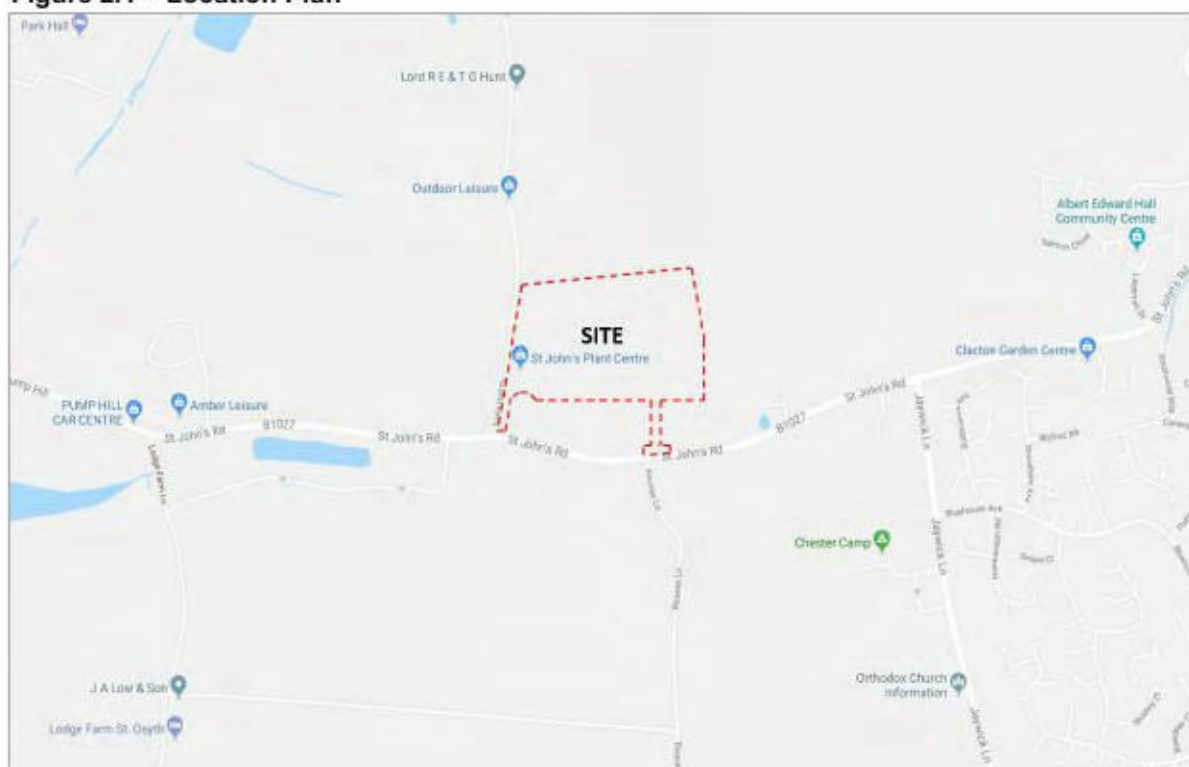


Figure 2.2 – Site aerial view



- 2.1.2 The application site has an area of 7.49 hectares with two vehicular accesses from Earls Hall Drive. Concrete structures are situated at each access but the majority of the structures on site are glass houses. The southern portion of the site is mostly clear of structures and used as vehicular access and car parking towards the western boundary.
- 2.1.3 Planning permission was granted in 2017 for an extension to the existing car parking area (Ref:17/01770/FUL). The existing and extended car parking area is situated at the southern boundary of the site. The planning consent is extant and is a material consideration in determining the baseline transport conditions.
- 2.1.4 Immediately north and east of the site is predominantly of arable farmland, the western boundary is Earls Hall Drive and the southern boundary comprises rear gardens of residential dwelling along St John's Road. Further west of Earls Hall Drive is predominantly greenfield land with residential dwellings along the southern boundary.

2.2 Means of access

- 2.2.1 The site has existing vehicular accesses from Earls Hall Drive which is a single-track rural lane suitable to allow two cars pass at slow speed, taking access from St John's Road in the form of a wide priority junction and providing ample space for large vehicles. Private driveways take access directly from the bellmouth on both sides. Earls Hall Drive also give access to farmland and Earl's Hall Fisheries.



3.0 LOCAL TRANSPORT NETWORK

3.1 General

- 3.1.1 Earls Hall Drive is a private lane, subject to a 5mph speed limit; it has sufficient width for 2 cars to pass but no footpath. The junction onto St John's Road has good inter-visibility between drivers in all directions, in accordance with the standards set out in the Design Manual for Roads and Bridges (DMRB).
- 3.1.2 St John's Road is a B class road and forms part of the B1027 which leads east and west-bound across the northern portion of Clacton on Sea, towards St Osyth and Holland-on-Sea respectively. St John's Road is a single carriageway with a speed limit of 40mph in the vicinity of the site. It has a grass verge and footway on the northern side of the carriageway and benefits from a comprehensive system of street lighting. St John's Road is characterised by direct frontage access to numerous residential dwellings. It is also a major bus route.
- 3.1.3 St John's Road joins Jaywick Lane via a mini roundabout situated east of the site. Further east St John's Road joins a five-arm roundabout with the A133 London Road.
- 3.1.4 Jaywick Lane leads south towards the sea front and serves private driveways and a large residential catchment. It is a single carriageway with a speed limit of 30mph starting from the B1027 mini roundabout for a distance of 800m south of the mini roundabout, then increasing the speed limit to 40mph.
- 3.1.5 The A133 generally leads north-west towards Colchester. It joins the A120 which heads west to Colchester and east to Harwich. From the five-arm roundabout with St Johns Road, the A133 leads south towards Clacton-on-Sea town centre. The A133 is a single carriageway road; it is subject to a 30mph speed limit at the roundabout and south into Clacton-on Sea, but it is subject to the national speed limit as it heads north.

3.2 Sustainability audit

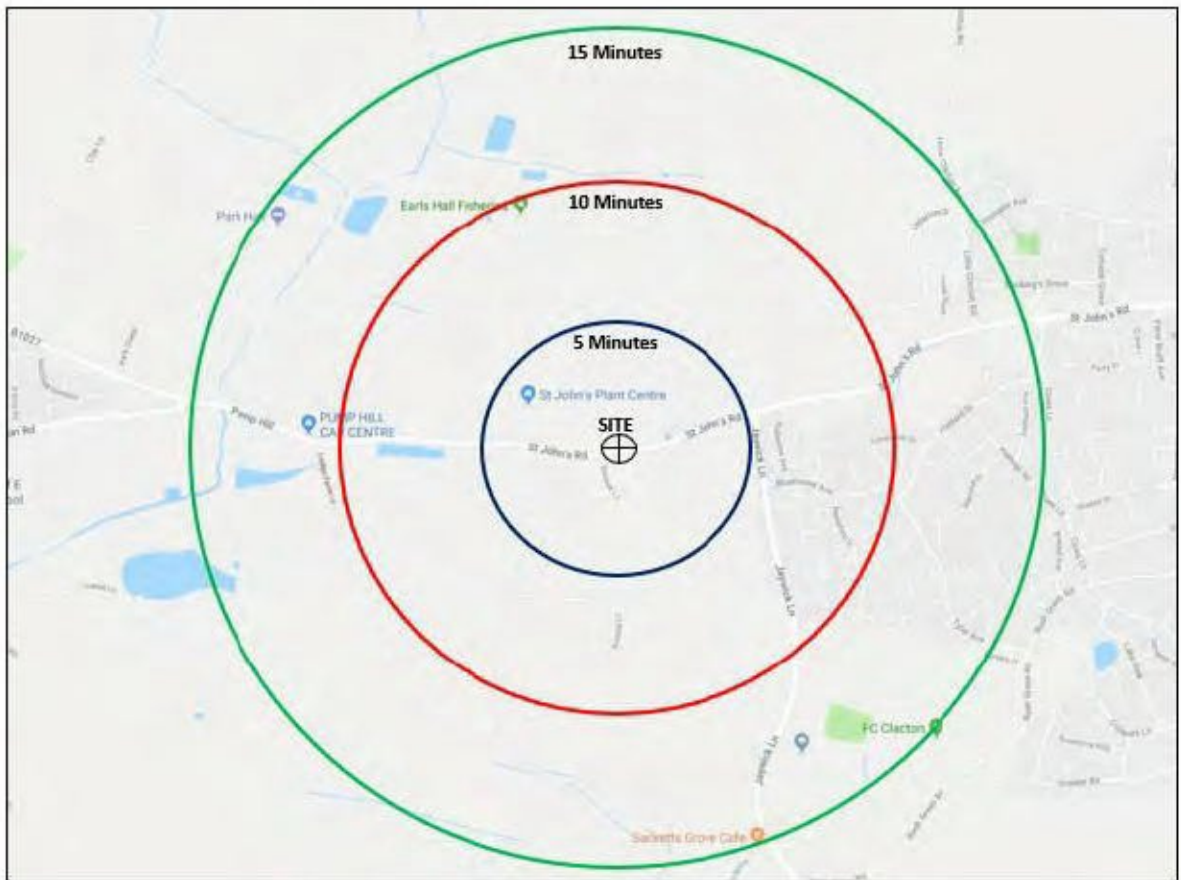
- 3.2.1 Initial pedestrian, cycle and public transport audits have been carried out for the area surrounding the site.

3.3 Pedestrian movement

- 3.3.1 Acceptable journey distances on foot vary depending on the purpose of the journey, the environment in which the journey is taking place and of course the individual walking. Prior to being superseded by the National Planning Policy Framework (NPPF) PPG13 suggested that walking offers the greatest potential to replace short car trips for journeys less than 2km. The IHT guide 'Providing for Journeys on Foot' suggests that for journeys to work a desirable walking distance would be 500m, an acceptable walking distance would be 1km and the preferred maximum walking distance would be 2km, in line with the PPG13 advice.
- 3.3.2 Most roads in the vicinity of the application site have footways on one or both sides of the carriageway that provide a link between the site and the surrounding area and facilities. St John's Road has good quality footway on the northern side of the carriageway with a grass verge between the footway and the carriageway.
- 3.3.3 Figure 3.1 below shows 5, 10 and 15 minute walking isochrones centred on the application site access. This indicates that there are local amenities within walking distance of the application site which include The Woodrows Nursery, local food shops, post office, Albert Edward Hall community centre and healthcare centre.



Figure 3.1 – Pedestrian isochrones (Radii)



3.4 Cycle movement

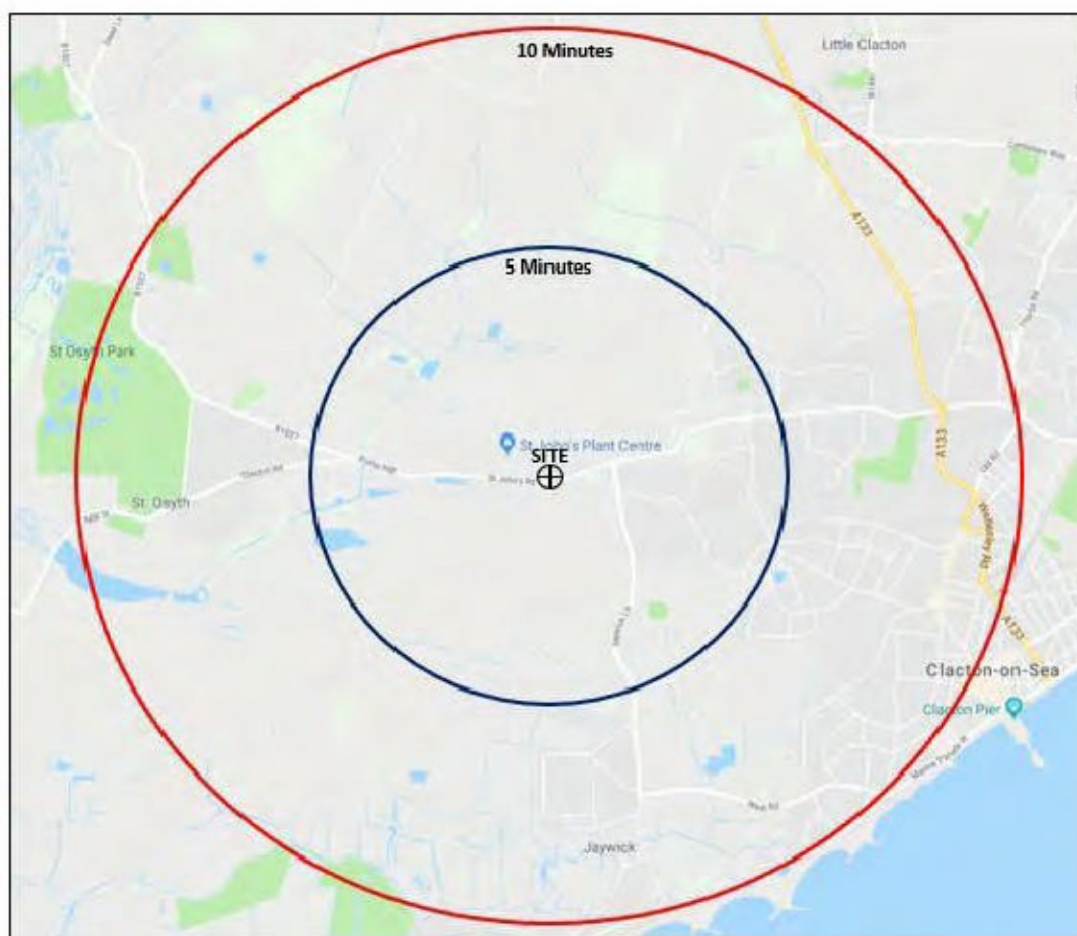
- 3.4.1 The cycle network within Clacton-on-Sea is fairly inconsistent but there is a number of isolated sections of off-road cycle routes located throughout the town. The most prominent section is along the seafront, which provides a route to Frinton-on-Sea and its apart of the National Cycle Network, Route 150.
- 3.4.2 Figure 3.2 below shows the percentage of people cycling to work by origin in Clacton-on-Sea, full details of which are included as **Appendix B**. The map also shows off-road routes indicated in purple, on-road route in dashed purple and the dashed red line indicates the National Cycle Route along the coast.

Figure 3.2 – Proximity to National Cycle Network



- 3.4.3 A shared cycleway/footway is present at the A133/London Road/ St John's Road roundabout and cyclists are directed to join the carriageway at each exit. Figure 3.3 below shows 5 and 10-minute cycle isochrones centred on the proposed site access. It indicates that within a 10-minute bike ride, a large segment of Clacton-on-Sea can be reached including the National Cycle Network and town centre. The combination of the National Cycle Network, and lightly trafficked roads makes the site a suitable location to promote travel by bike.

Figure 3.3 – Cycle isochrones (radii)



3.5 Public transport

- 3.5.1 The nearest bus stops are located on St John's Road, 90m west of Earls Hall Drive. They are served by a range of routes giving access to the wider network. Routes and frequency are summarised in table 3.1 and full timetables can be found at www.hedingham.co.uk, www.stephensonsofessex.com and www.firstgroup.com.

Table 3.1 – Bus timetable summary

Route No.	Destination	Frequency	Duration
6	Clacton – Point clear Via Bockings Elm – St Osyth	30 mins	0705-1850
17	West Bergholt – Stanway School	2 trips per day	School days only
18	Clacton – Point Clear Via Great Clacton, Peter Bruff Avenue, St Osyth	2 trips per day	1950 & 2250
74/74B	Clacton – Colchester Via St Osyth, Essex University	30–60 mins	0710-2115
702	Frinton – Clacton-on-Sea – Thorrington to Colchester schools	2 trips per day	0705 & 1710



3.5.2 The nearest rail station is the Clacton-on-Sea station, 3.9km south-east of the application site. This station is served by the Greater Anglia rail service from Ipswich to London Liverpool Street via Clacton-on-Sea, Colchester and Braintree. These services operate regularly on the weekdays which benefits those who are commuting to work in London. The rail station has provision for a ramp to access the train for those in a wheelchair along with accessible ticket machines. Clacton-on-Sea rail station benefits from bus stops, taxi rank and secure, covered cycle parking.

3.6 Sustainability audit summary

3.6.1 It is clear that ample opportunities exist to travel to and from the site on foot, by bike, or using local public transport. This is a good site to promote sustainable travel and reduce reliance on the private car.



4.0 RECENT PLANNING HISTORY

4.1 General

- 4.1.1 Planning permission was granted for the extension of the existing car park to provide a total of 253 spaces along the south boundary of the site (Ref; 17/01770/FUL). The decision notice and proposed plans are included as **Appendix C**.
- 4.1.2 In January 2021 planning permission was refused by The Planning Inspectorate for a development of 195 dwellings including 23 affordable homes and 8 live/work units on this site [APP/P1560/W/20/3256190]. The highway authority had raised no objection to the application and the planning case officer had recommended that the application should be approved; however, planning permission was refused against officer recommendation in February 2020 by Tendring District Council for five reasons. The applicant submitted an appeal against that refusal, however, at the pre-inquiry case management conference, the Council advised that they would not be defending the third reason. A Public Inquiry was held in October 2020 where the remaining four reasons for refusal were considered. At the Inquiry and in the decision notice, the Inspector stated that the main issues were the effect of the development on:
- The character and appearance of the surrounding area (reasons 1 & 2); and
 - The safety and free flow of traffic on the local highway network (reasons 4 and 5).
- 4.1.3 The Inspector concluded that that the proposed development would not adversely affect the safety and free flow of traffic on the highway network. He stated that the development would accord with Policies QL10(i), HG13(iii), TR1 and TR1a of the Tendring District Local Plan. He also stated that there would be no conflict with paragraphs 108, 109 and 124f) of the National Planning Policy Framework. The appeal was dismissed on the grounds of the effect on the character and appearance of the area, but the Inspector found that the effects of the development on the safety and free flow of traffic on the local highway network would be acceptable and that is something that weighs significantly for the development. The appeal decision is included at **Appendix D**.

4.2 Leisure Fame Ltd

- 4.2.1 An outline planning application was submitted in March 2018 for residential development on land north of 782-828 St John's Road (Ref; 18/00379/OUT). The proposals included the demolition of number 824 St John's Road to construct a new priority junction. A full Transport Assessment (TA) was submitted with the planning application which included traffic survey data of the local highway network. On an email to the planning authority dated 23rd April 2018, ECC Highways raised no objections subject to receipt of an amended plan. They accepted the content, scope and methodology of the submitted TA.
- 4.2.2 An Automatic Traffic Count (ATC) was carried out in April 2017, situated west of Earls Hall Drive on St John's Road and at the St John's Road/Jaywick Lane roundabout. The approved TA included a traffic distribution exercise based on the proportional split of traffic on St John's Road. Details of the observed traffic and distribution percentages are included as **Appendix E**.
- 4.2.3 The ATC showed that peak-hour traffic flows on St John's Road varied by up to 4.8% on any given weekday.
- 4.2.4 This survey data was used to inform the Transport Assessment which supported the refused application referred to in Section 4.1 above. The Council asserted that April traffic data was inappropriate as the basis for assessment (despite having approved the Leisure Fame development) due to a perceived increase in traffic during the Summer months. At the Inquiry this was found to be incorrect, and the Inspector agreed that the April baseline data was appropriate and suitable for the purpose of assessing future predicted transport effects.



4.3 Rouses Farm

- 4.3.1 An Outline planning application was submitted on 24th July 2017 for the development of Rouses Farm, situated east of the application site, to provide 950 dwellings and newly constructed accesses onto St John's Road and Jaywick Lane (Ref:17/01229/OUT).
- 4.3.2 The scheme includes a traffic signal junction with a right-turn lane on St John's Road and a traffic signal junction on Jaywick Lane. Due to the predicted number of vehicle trips generated by the development, Rouses Farm has an obligation to improve several junctions in proximity to the application site. The improvements include the following junctions; St John's Road/Jaywick Lane roundabout, St John's Road/Cloes Lane junction and the St John's Road/Peter Bruff Avenue junction. In a letter dated 3rd August 2018, ECC Highways raised no objection in terms of its impact upon the local highway network subject to the S106 improvements.
- 4.3.3 TDC resolved to grant planning permission to the Rouses Farm development in March 2019, but at the time of writing the S106 agreement had not been completed so planning permission had not yet been granted.



5.0 PROPOSED DEVELOPMENT

5.1 General

- 5.1.1 The proposed development comprises the demolition of all nursery structures and one dwelling house (700 St John's Road) and the erection of 180 residential units (including affordable housing) comprising 132 houses and 48 apartments (including 8 live-work units), open space, landscaping and associated infrastructure.
- 5.1.2 The schedule of accommodation is summarised in Table 5.1 below;

Table 5.1 – Residential accommodation schedule

Dwellings	Apartments	Houses
1 Bedroom	16	-
2 Bedroom	32 (includes live-work units)	10
3 Bedroom	-	83
4 Bedroom	-	24
5 Bedroom	-	15
Total	48	132

- 5.1.3 Architects' plans are included as **Appendix F**.

5.2 Means of access

- 5.2.1 The proposed means of access comprises the demolition of number 700 St John's Road to provide a priority junction with a 6m wide carriageway, a 2m footway on the western side and 1.5m wide footway on the eastern side with landscape enhancement. The internal road layout is designed to the configuration of an 'Access' street type which is suitable to serve up to 400 units on a loop or 200 units in a cul-de-sac in accordance with the Essex Design Guide. The initial access into the development follows the design parameters of a Feeder road, while the internal layout is designed as an Access road with footways on one or both sides of the carriageway. The layout also includes a number of Shared private drives in accordance with the Essex Design Guide.
- 5.2.2 The access and internal layout have been designed around the swept path of a 4-axle refuse vehicle which is the largest vehicle likely to access the application site. The assessment has been carried out using the proprietary software AutoTrack and the swept paths are included as **Appendix G**.
- 5.2.3 The proposed priority junction has been designed in such a way that, if/when the Rouses Farm development delivers their signal-controlled northern access, the two junctions can operate safely and with no material adverse effect on the operational capacity of either access. A swept path analysis and visibility review have been carried for the proposed junction, with and without the proposed signalised junction into Rouses Farm (included as **Appendix G**). The proposed priority junction has good inter-visibility in accordance with DMRB.
- 5.2.4 A new shared footpath/cyclepath will be constructed on the south/west corner of the site and adjacent to Earls Hall Drive. The new path is 3m wide with grass verges on either side. Bollards will be placed on the access/egress to prevent vehicular access via this route. However, one bollard will be demountable to provide access for an emergency vehicles.



5.3 Vehicle & Cycle Parking Provision

- 5.3.1 Essex County Council (ECC) sets the parking requirements for new developments in the county. Their publication, 'Parking Standards: Design and Good Practice' (Sept 2009) sets out the cycle and vehicle parking standards. Table 5.2 below shows the minimum cycle and vehicle parking standards to be provided.

Table 5.2 – Cycle & Vehicle parking standards

Use	Vehicle	Cycle	Disabled
	Minimum	Minimum	Minimum
1 Bedroom	1 Space per dwelling	1 secure covered space per dwelling. None if garage or secure area is provided within curtilage of dwelling	N/A if parking is in curtilage of dwelling, otherwise as Visitor/unallocated
2+ bedroom	2 spaces per dwelling		
Visitor/unallocated	0.25 spaces per dwelling (unallocated) (rounded up to nearest whole number)	If no garage or secure area is provided within curtilage of dwelling, then 1 covered and secure space per dwelling in a communal area for residents plus 1 space per 8 dwellings for visitor	200 vehicle bays or less = 3 bays or 6% of total capacity, whichever is greater, Over 200 vehicle bays = 4 bays plus 4% of total capacity
Use	Maximum	Minimum	
A1 (excluding food stores)	1 space per 20 sqm	1 space per 400 sqm for staff and 1 space per 400 sqm for customers	

- 5.3.2 Table 5.2 demonstrates that a total of 344 residential spaces are required for the proposed number and mix of units plus 45 spaces for visitors/unallocated parking. This will equate to 389 of which 4% will be suitable for blue badge holders, resulting in a total minimum parking requirement of 2.2 spaces per dwelling.
- 5.3.3 The proposed development provides 435 parking spaces of which 375 are available for residents and 60 for visitor/unallocated spaces. This exceeds the minimum parking spaces required by ECC.
- 5.3.4 Secure and covered cycle parking will be provided for units without garages in accordance with the ECC cycle standards.



6.0 RESIDENTS' TRAVEL INFORMATION

6.1 Introduction

- 6.1.1 As stated in the introduction, this TA has been developed to seek to influence modes of travel to and from the proposed development rather than merely predicting travel patterns and providing mitigation.
- 6.1.2 The development will be supported by a three-part Transport Implementation Strategy (TIS) comprising:
- Residential Travel Pack;
 - Delivery and Servicing Strategy;
 - Construction Logistics Plan.
- 6.1.3 These are described in the following chapters.

6.2 Residential Travel Pack

- 6.2.1 Unlike employment, retail, or educational sites it is not possible to dictate to residents how they should travel. For this reason, residential travel planning is based on the provision of infrastructure, incentives and information rather than the imposition of management procedures. In the case of this proposed residential development the introduction of appropriate infrastructure and the communication of relevant information are structured as a 'Residential Travel Pack'.
- 6.2.2 The proposed development will provide appropriate infrastructure to encourage sustainable travel and will also provide information and incentives where practicable.
- 6.2.3 The effects of travel choices on our environment, our health and our quality of life are well documented. Sources describe how increases in road traffic have produced unsustainable levels of congestion and pollution. The effects can be felt at a local level through poor air quality, noise and busier roads and at a global level through suggested linkages to climate change. Journeys by road are becoming slower and more unreliable causing problems for business and stress to drivers.
- 6.2.4 There has been a significant increase in the proportion of individuals travelling to work by car. Over 80% of car journeys to work are driver only. Even a small modal shift in home-work-home journeys away from the car would result in a considerable reduction in traffic congestion at peak times.
- 6.2.5 Travel planning must be realistic and should not expect to remove car usage altogether. Instead, an effective travel initiative will maximise the use of sustainable travel to achieve more sensible and appropriate use of the private car. If every car commuter used an alternative to the car on just one day a week, car usage levels for commuting would be reduced by as much as 20% immediately, with commuter parking requirements also reduced by up to 20%. In an accessible location such as Hackney Wick, however, low-car or car-free housing is a realistic prospect.

6.3 Infrastructure

- 6.3.1 A key element of the proposed development is the introduction of appropriate infrastructure to encourage sustainable travel.
- 6.3.2 The Site is already accessible on foot, by bike and by bus. The transport infrastructure surrounding the Site lends itself to encouraging these modes of travel. The development has therefore been designed as a shared space, suitable for pedestrians, cyclists and drivers, with direct segregated pedestrian and cycle links to the surrounding network and providing secure cycle parking spaces for each dwelling.
- 6.3.3 The development will also provide a segregated pedestrian and cycle path to St John's Road situated in the south-west corner of the development adjacent to Earls Hall Drive and a footway on one side of the access road.



6.4 Residents' Travel Pack

- 6.4.1 It will be the responsibility of the developer to ensure that residents are provided with an information pack containing details of public transport timetables and maps, as well cycling and pedestrian infrastructure when they move into the houses and flats.
- 6.4.2 The site's communal areas will be maintained by a management company. The management company will be obliged to provide an update to the 'Residents Travel Pack' once every twelve months in order that any new residents are made aware of their local transport options.
- 6.4.3 The information pack will include information and incentives for all residents. The information will enable the new residents to make informed decisions about their modes of travel. The incentives will be provided by the developer in the first instance and will be dependent on negotiating suitable packages with local shops and services. The likely content of the Residents' Travel Pack will be:
- Cycle route information;
 - Sustrans leaflets on the beneficial effects of walking and cycling ;
 - Free reflective clothing i.e. cycle bib, arm bands etc.;
 - Free bicycle locks/helmets;
 - Developer to negotiate local cycle shop discount (e.g. Cycle Mart);
 - Details of local cycle groups (e.g. Clacton Cycling and Running Club (CCRC));
 - Details of BikeBUDi travel system ;
 - Cycle hire;
 - Bus route/timetable information;
 - Details of car-sharing website (e.g. www.essex.Liftshare.com);
 - Details of CarBUDi travel system;
 - Notice/message board in foyer of flats to allow people to car share/walk/cycle together (perhaps at night for safety);
 - Developer to negotiate preferential rates at local car-hire company;
 - Taxi company information – possible discount vouchers for a taxi company;
 - Details of TaxiBUDi travel system;
 - Supermarket home delivery details.
- 6.4.4 This list is not exhaustive or a prescriptive list of what will be in the travel pack but provides details of the likely content of the pack. Details of the final pack will be agreed in partnership with the Council.



7.0 DELIVERY AND SERVICING PLAN

7.1 Introduction

- 7.1.1 This Delivery and Servicing Strategy (DSS) highlights the implications of the proposed redevelopment with regard to existing and proposed servicing constraints. This report takes into consideration the adopted methods of good design practice. This DSS has been prepared in accordance with the Freight Transport Association document '*Designing for Deliveries*' and the guidance document '*Managing freight effectively: Delivery and Servicing Plans*'.
- 7.1.2 A DSS will aim to provide consideration of consolidation and collaborative delivery arrangements to help reduce the impact of commercial goods and servicing vehicle activity in and out of premises/developments.

7.2 Refuse collection

- 7.2.1 TDC currently operates residential kerbside collection on St John's Road which will continue into the proposed development as the internal layout will be offered for adoption as public highway. The proposed apartments are provided with bin stores at ground level directly in front of the building. Residents will be able to bring refuse down to ground level where they will have easy access into the refuse stores. The refuse stores will have doors opening onto hard paved areas linking directly to the adopted public highway. This arrangement ensures the bin stores are no further than 15m from the public highway. Refuse and recycling bins can be collected directly from the stores and wheeled to the vehicles.
- 7.2.2 The internal layout and access from St John's Road have been assessed for a 4-axle refuse vehicle using AutoTrack and the swept paths are included as **Appendix G**.

7.3 Consolidation

- 7.3.1 Residents will be advised of the importance of consolidating deliveries where possible. New residents will be provided with information explaining how they can consolidate deliveries such as supermarket deliveries with their neighbours and how this can deliver cost savings. This accords with TDC advice.

7.4 Hours of delivery

- 7.4.1 There are no restrictions on the hours of delivery to other residential or business premises served by St Johns Road. There is therefore no need to restrict delivery hours.

7.5 Route management

- 7.5.1 The site takes access from the St John's Road. There are no height or weight restrictions on St John's Road that would result in HGV diversion routes to or from the site.
- 7.5.2 As a principle, all drivers will be advised to use the highest category of road legally available to them and to avoid residential roads where practicable.

7.6 First time delivery

- 7.6.1 Provisions will be made for first time deliveries. This will ensure that there is a safe and secure location to drop parcels off if residents are unavailable to take receipt of goods at time of delivery. This will reduce the need for return visits.

7.7 Promotion of LGV rather than HGV

- 7.7.1 Residents will be advised of the benefits of promoting delivery by Light Goods Vehicles. New residents will be provided with a leaflet explaining what information should be provided to delivery companies to maximise the use of small vehicles for deliveries or to advise of appropriate servicing arrangements for larger vehicles. This accords with TDC advice.



8.0 TRIP GENERATION

8.1 Introduction

8.1.1 The impact of the proposed development is determined by comparing the net increase in journeys between the existing and proposed uses. Accordingly, the DfT Guidance on Transport Assessment (March 2007) advises at paragraph 4.7 that baseline traffic data should be derived as follows:

Baseline transport data

- *The quantification of person trips generated from the existing site and their modal distribution, or, where the site is vacant or partially vacant, the person trips which might realistically be generated by any extant planning permission or permitted uses;*

8.1.2 The proposed development will comprise the demolition of the existing nursery buildings and the construction of 180 dwellings. Therefore, a comparative assessment of the potential travel generation associated with the existing and proposed uses has been undertaken to assess the net effect of redeveloping this site.

8.2 Existing

8.2.1 TRICS does not include survey sites for Nurseries with ancillary Garden Centres. It does, however, include information for stand-alone Garden Centres. It is important to bear in mind that the site benefits from an extant permission for an extension to the parking area. For the purpose of this assessment, TRICS data has been applied to the approved car park extension to determine the potential trips that would be generated by the approved number of parking spaces.

8.2.2 The TRICS database has been interrogated to find similar sites. The most appropriate sites are Garden Centres in England (outside London). However, to conduct a robust assessment, more appropriate to the St John's Plant Centre, travel demand for the existing use is calculated by deriving a trip rate per parking space. TRICS output data is included as **Appendix H**.

8.2.3 The TRICS survey sites include information about the number of parking spaces at each site. It is therefore possible to establish a trip rate per parking space rather than a trip rate per square metre which is more appropriate for a mixed nursery and garden centre such as St John's Plant Centre.

8.2.4 If the derived trip rates are applied to the approved 253 parking spaces, the trips would be as shown in Table 8.1 below:

Table 8.1 – Existing use, trip rates and trips (TRICS survey)

	Trip Rate per Spaces			Trips Generated		
	Arrivals	Departure	Total	Arrivals	Departure	Total
0800-0900	0.091	0.055	0.146	23	14	37
1700-1800	0.018	0.055	0.073	5	14	18

8.2.5 Table 7.1 demonstrates that the existing site would generate 37 trips in the AM peak (23 arrivals and 14 departures) and 18 trips in the PM peak.

8.2.6 The use of TRICS data to determine the baseline travel demand was queried by the Council and examined in detail as part of the 2020 Public Inquiry. It was agreed that the *daily* vehicle trips were not representative of the existing horticultural use, but the peak hour trips were a reasonable representation of the lawful use of the 7.49ha site, taking account of the variety of lawful uses, the number of potential staff (management, pickers, wholesale etc) and visitors. Accordingly, Table 8.1 includes baseline peak hour vehicle trips only.



Proposed residential use

- 8.2.7 This section assesses the predicted vehicle trips generated by the proposed development onto the local highway network at peak hours and throughout the day. The TRICS database has been interrogated to determine the likely level of vehicular trips to and from the application site.
- 8.2.8 The proposed development includes 180 residential units (including affordable housing) comprising 132 houses and 48 apartments (including 8 live-work units). Arguably, the live-work units will generate less traffic during the peak hours as they are purposely built to allow residents live and work in the same place. However, for a robust assessment the trip rates for flats have also been applied to these units.
- 8.2.9 The TRICS selection criteria includes sites of similar developments at the edge of town or sub-urban areas in England and outside London. The TRICS database does hold information for rented dwellings which shows lower travel demand than market dwellings. However, for the purpose of a robust assessment, the predicted journeys associated with the proposed residential development are based on market dwellings only. The residential vehicle trip rates and trips for 132 houses and 48 flats are summarised in Table 8.2 & 8.3 respectively below and the TRICS data output is included as **Appendix H**.

Table 8.2 – Residential trip rates and trips (132 houses)

	Trip Rate per Spaces			Trips Generated		
	Arrivals	Departure	Total	Arrivals	Departure	Total
0800-0900	0.132	0.288	0.420	17	38	55
1700-1800	0.249	0.166	0.415	33	22	55
Daily	1.709	1.875	3.584	226	248	473

Table 8.3 – Residential trip rates and trips (48 flats)

	Trip Rate per Spaces			Trips Generated		
	Arrivals	Departure	Total	Arrivals	Departure	Total
0800-0900	0.038	0.205	0.243	2	10	12
1700-1800	0.178	0.076	0.254	9	4	12
Daily	1.337	1.369	2.706	64	66	130

- 8.2.10 Tables 8.2 & 8.3 demonstrate the potential vehicular trips generated by the proposed unit mix. The combined trips generated by the residential development are shown in Table 8.4 below.

Table 8.3 – Combined development trips

	Combined Trips Generated		
	Arrivals	Departure	Total
0800-0900	19	48	67
1700-1800	42	26	67
Daily	290	314	603

- 8.2.11 Table 8.4 shows the combined vehicle trips generated by the proposed development. It demonstrates that the AM and PM peak are predicted to generate 67 (2-way) vehicle trips and 67 (2-way) vehicle trips respectively.



9.0 TRANSPORT EFFECTS

9.1 Net effects

9.1.1 The transport impact of the proposed development is derived by comparing the potential trip generation of the lawful use of the site and the predicted trips from the proposed use of the site (comparing Tables 8.1 and 8.4). The net change in travel demand is shown in Table 9.1 below.

Table 9.1 – Net change in travel demand

	Combined Trips Generated		
	Arrivals	Departure	Total
0800-0900	-4	34	30
1700-1800	37	12	49

9.1.2 The development would therefore generate a small increase in peak hour vehicle trips on the highway network. An increase of 30 two-way vehicle trips is predicted in the AM peak, comprising four fewer arrivals but 34 additional departures. The 34 additional departures constitute 9 additional vehicles leaving the site every 15 minutes during the AM Peak. The PM peak will see 49 additional two-way trips comprising 37 additional arrivals and 12 additional departures.

9.1.3 The additional traffic will distribute onto the highway network it was previously agreed that traffic would distribute 49% heading east and 51% heading west in the AM peak and 54% & 46% of vehicles heading east and west respectively at the PM peak. The additional traffic on the highway network would therefore be as shown in Table 9.2 below:

Table 9.2 – Net change in travel demand (distributed onto St Johns Road)

	Additional 2-way trips on St Johns Road		
	East of Site	West of Site	Total
0800-0900	15	15	30
1700-1800	26	23	49

9.1.4 The net increase in peak hour traffic on St Johns Road would be less than daily variation and therefore imperceptible to other highway users. The negligible increase in traffic would have no material effect on highway capacity or highway safety.

9.1.5 For completeness, Table 9.3 below shows the net change in travel demand associated with the previous, larger development proposal on this site and considered acceptable by the Planning Inspector.

Table 9.3 – Previous application net change in travel demand

	Combined Trips Generated		
	Arrivals	Departure	Total
0800-0900	5	68	73
1700-1800	66	26	93

9.1.6 Clearly, the current proposal is for fewer dwellings and will therefore generate less traffic than the previous development which was considered acceptable by the highway authority and PINS.



9.2 Previous highway capacity analysis (based on 195 dwellings)

9.2.1 For ease of reference, the traffic impact assessment associated with the previous, larger scheme is included here. This includes the original assessment as set out in the 2018 Transport Assessment as well as further analyses carried out at TDC's request to inform the appeal process.

9.3 Traffic Growth and Distribution

9.3.1 Development traffic will distribute from the site access according to the proportion of traffic flows on St John's Road, in line with the approved methodology. An Automatic Traffic Count was carried out by Leisure Fame Ltd in April 2017, situated west of Earls Hall Drive on St John's Road and at the St John's Road/Jaywick Lane roundabout. The surveyed traffic proportion on St John's Road shows 49% of vehicles heading east and 51% heading west in the AM peak and 54% & 46% of vehicles heading east and west respectively at the PM peak.

9.3.2 The National Road Traffic Forecast (NRTF) was used to apply growth to traffic flows from 2017 to 2023, the anticipated year of completion. A low NRTF growth factor of 1.044 was used to growth the 2017 traffic; which was considered to take account of committed development (other than Rouses Farm) and general increases in traffic flows on St John's Road. (It should be noted that an additional sensitivity test was subsequently carried out applying not only NRTF growth to the background traffic, but adding traffic associated with specific committed developments on top. This was a very robust form of assessment. The findings were set out in Technical Note 1, included here as **Appendix I.**)

9.3.3 It is important to note that the car park extension for the St John's Plant Centre was granted permission in December of 2017; therefore, the observed survey data did not include potential traffic generated by the car park extension.

9.4 Proportional effects

9.4.1 The development traffic associated with the previous 195-unit scheme was applied to the future 2023 baseline flows on the St John's Road/Jaywick Lane roundabout in order to determine the potential impact of the proposed development on the highway network.

9.4.2 The net effect of the previous scheme is shown in tables 9.1 and 9.2. The proportional increase in traffic was derived by assessing the increase as a percentage of the future baseline (including the lawful use of the site). Figures 9.1 and 9.2 show the percentage increase on each arm of the roundabout for the AM and PM peaks.

Figure 9.1 – Proportional increase in traffic AM peak (2023)

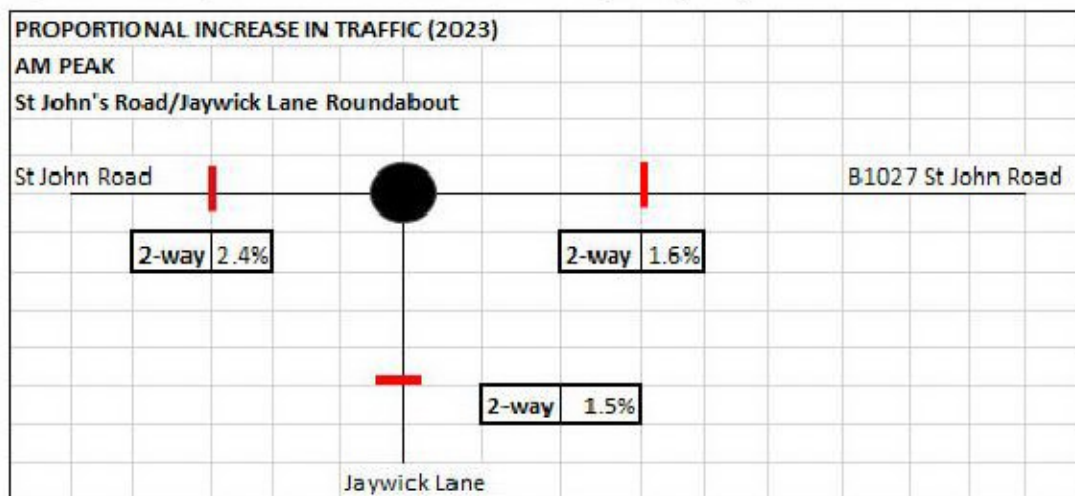
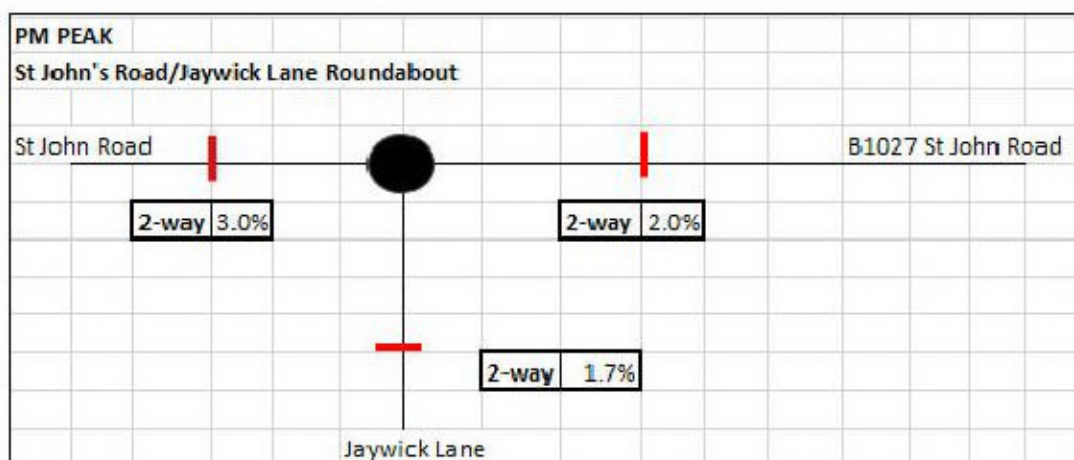




Figure 9.2 – Proportional increase in traffic PM peak (2023)



- 9.4.3 This demonstrated that the proportional increase in traffic as a result of the previously proposed development would not exceed 3% at any arm of the roundabout. This net increase is less than daily variation and would therefore be imperceptible to the local highway users. This assessment demonstrated that the previous development would not have any material effect on the capacity or safety of the local highway network. It is important to note the trips associated with residential development are at its highest during the highway peak and therefore represent a robust assessment of the potential impact on to the highway network. Based on these findings, there was no need to model the Jaywick Lane roundabout (or those beyond) as the increase in vehicle trips generated by the previous development would be less than daily variation during the highway peaks. Furthermore, as the development trips were distributed across the local highway network, the impact would be even less at each subsequent junction.
- 9.4.4 It is self-evident that if the above can be said of the previous scheme of 195 dwellings, then the effect of a smaller scheme of 180 dwellings would be less still.
- 9.4.5 Notwithstanding these findings, TDC requested an additional sensitivity test reviewing the effects of development, taking account of traffic associated with individual committed developments over and above the NRTF growth applied to the baseline traffic. This additional assessment was set out in Technical Note 1 (June 2020) and is included here as **Appendix I** together with the cover Entran letter (L4) dated 27th June 2020.
- 9.4.6 Following receipt of letter L4 and TN1, TDC requested a new LinSig model of the Rouses Farm signal-controlled junction, taking account of the vehicle trips set out in TN1. The findings of that assessment were set out in Entran letter L5 dated 23rd September 2020, included here as **Appendix J**.

9.5 Planning Inspector findings

- 9.5.1 The Transport Assessment, Technical Note 1 and letters L4 and L5 all concluded that the previous development (195 dwellings) would have no material effect on the operational capacity of the local highway network when assessed individually, or cumulatively with other committed developments in the area. These findings were scrutinised in detail at a Public Inquiry and the appointed Planning Inspector agreed with those findings. He found that the effects of the previous development on the safety and free flow of traffic on the local highway network would be acceptable and that is something that weighs significantly for the development.
- 9.5.2 The current proposal is for 180 dwellings which will clearly have even less effect on the surrounding highway network.



10.0 TRANSPORT IMPROVEMENTS

10.1 Proposed improvements

- 10.1.1 The proposed development removes vehicular access to the site via Earls Hall Drive. A new pedestrian/cycle access will be provided at that point and a new dedicated vehicle access provided further east. This will reduce vehicle trips on Earls Hall Drive to the benefit of other residents and businesses who currently also take access from Earls Hall Drive.
- 10.1.2 The vehicle access will be constructed at number 700 on St John's Road and will provide a purpose-built residential access road with a 6m wide carriageway and footways on both sides. The access includes tactile paving with flush dropped kerbs.
- 10.1.3 The traffic impact assessment in Section 9 demonstrates that there is no requirement for off-site highway works to mitigate any traffic impacts. However, the development will deliver a suite of highway improvements to promote and encourage sustainable travel choices among the new residents and the wider community. These are set out below:
- Provision of three upgraded bus stops on St Johns Road, including new pedestrian crossing points across St Johns Road with dropped kerbs and tactile paving (See **Appendix K**);
 - Pro-rata financial contribution to bus services on St Johns Road;
 - Provision/upgrade of a 3-metre wide shared cycleway/footway on the north side of St Johns Road from its junction with Earls Hall Drive eastwards to the main vehicular access to the site and beyond to tie in with the proposed footway/cycleway for the Rouses Farm development south of St Johns Road (See **Appendix L**).
 - New Box junction (or Keep Clear markings) to protect right turns into the proposed site access;
 - Construction Management Plan prior to commencement;
 - Residential Travel Information Packs prior to first occupation.
- 10.1.4 This package of measures was discussed and agreed with the local planning authority as part of the previous, larger development, but the applicant is committed to delivering these improvements as part of the revised, smaller development.



11.0 SUMMARY AND CONCLUSIONS

- 11.1.1 This Transport Assessment (TA) has been prepared by Entran Ltd in support of a planning application for the redevelopment of the existing St John's Plant Centre on land adjacent to Earls Hall Drive, Clacton-on-Sea, to provide a new residential development.
- 11.1.2 This TA has been prepared alongside a Transport Implementation Strategy which provides the opportunity to reduce dependence on travel by private car and seeks to influence travel to and from the site rather than merely assessing its impact.
- 11.1.3 The development comprises the demolition of all existing structures and the construction of 180 new homes with provision for car parking, secure cycle parking and landscape enhancements. The proposed development provides 435 parking spaces of which 375 are available for residents and 60 for visitor/unallocated spaces. This exceeds ECC's minimum requirements and has been assessed to meet future parking demand at the site, even allowing for growth in car ownership.
- 11.1.4 The site is well placed to promote travel on foot and by bike.
- 11.1.5 Bus stops within easy walking distance of the site are served by bus services operating throughout the day and offering a wide range of destinations at frequencies of up to 60 minutes.
- 11.1.6 The closest station is the Clacton-on-Sea rail station 3.9km south-east of the application site. This station is served by the Greater Anglia rail service from Ipswich to London Liverpool Street via Clacton-on-Sea, Colchester and Braintree. These services operate regularly on the weekdays which benefits those who are commuting to work in London.
- 11.1.7 The evidence shows that the site is accessible by foot, by bike, by bus or using rail services. The site is clearly well placed to promote travel by sustainable modes of transport and reduce reliance on the private car. The residents of the proposed development will have a genuine and viable choice of modes of travel.
- 11.1.8 The development will be supported by a three-part Transport Implementation Strategy comprising the Residents' Travel Information Pack, Construction Logistics Plan (CLP) and Delivery & Servicing Plan (DSP). Final versions of the CLP and DSP will be prepared (prior to commencement and occupation respectively) in partnership with Tendring District Council (TDC) and Essex County Council (ECC).
- 11.1.9 A detailed analysis of vehicle trips associated with the lawful use of the site and the proposed residential development, shows that the net increase in traffic would be less than daily variation on any part of the local highway network. The nominal increase in traffic would therefore have no material effect on highway safety or capacity.
- 11.1.10 The cumulative effect of the proposed development and local committed development sites would still be less than the capacity provided by committed highway improvement schemes.
- 11.1.11 The local highway network has been assessed for a previous, larger scheme of 195 dwellings and tested through a Public Inquiry. The Planning Inspector found that the transport effects of that development were acceptable. The revised development of 180 dwellings will have less effect on the highway network but will still deliver a suite of highway improvements to promote sustainable travel behaviour.
- 11.1.12 The proposed development would comply with Policies QL10(i), HG13(iii), TR1 and TR1a of the Tendring District Local Plan and with paragraphs 108, 109 and 124f) of the National Planning Policy Framework
- 11.1.13 For the reasons set out in this Transport Assessment there is no reason why the proposed development should be refused on grounds of highway capacity or safety, impact on the transport network or sustainability. The provision of new homes at St John's Road offers an opportunity to enhance this area with no material adverse effect on transport and should be supported by the local highway authority.



Appendix A

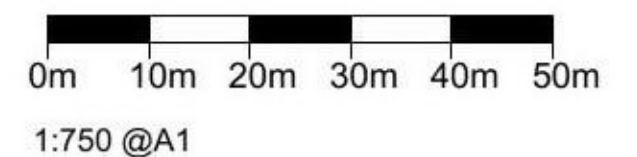
Planning application red line



1.52m RH



NOTES:
 Copyright Chetwoods (London) Limited. No implied licence exists.
 Contractors must verify all dimensions on site before commencing any work or shop drawings. This drawing is not to be scaled. Use figured dimensions only.
 Subject to statutory approvals and survey.
 Building areas are liable to adjustment over the course of the design process due to the ongoing construction detailing developments.
 Please note the information contained within this drawing is solely for the benefit of the employer and should not be relied upon by third parties.
 The CDM hazard management procedures for the Chetwoods aspects of the design of this project are to be found on the "Chetwoods - Hazard Analysis and Design Risk Assessment" and/or drawings. The full project design team comprehensive set of hazard management procedures are available from the Principle Designer appointed for the project.



1:750 @A1

APPLICATION RED LINE

B	- red line amended	27.9.18	dt
A	- red line amended	25.7.18	dt



Rev	Revision Description	Date	Author/Reviewer
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PLANNING

12-13 Clerkenwell Green
 London EC1R 0DJ



Project
**ST JOHNS NURSERY
 CLACTON ON SEA**

Client

Drawing Title
EXISTING SITE PLAN

Scale	Size	Drawn	Checked	Date
1:750	A1	dt	dt	30.4.18

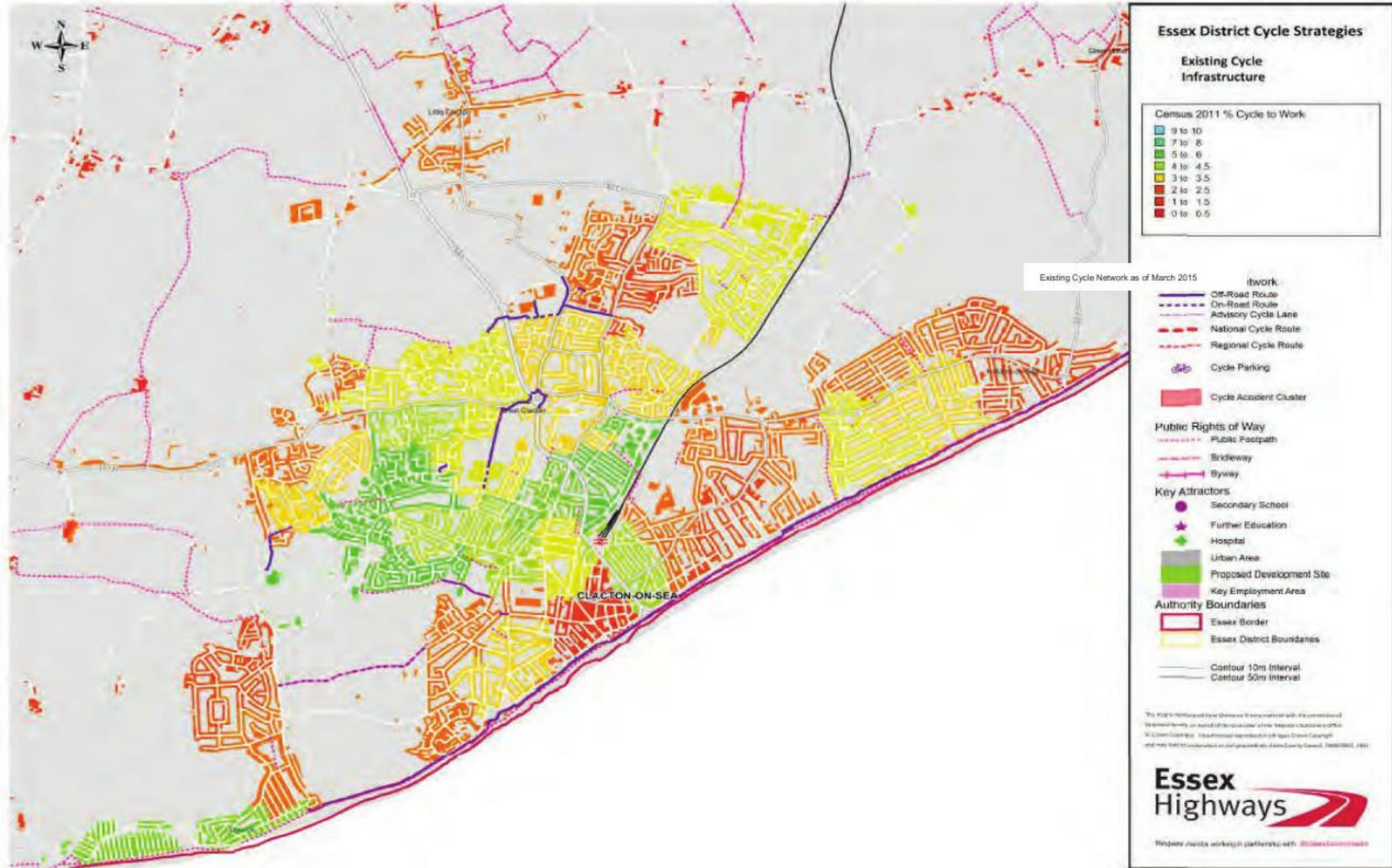
Project	Originator	Zone	Level	Type	Rev	Number	Rev.
4424	CA					PL 0100	B



Appendix B

Cycle to work by origin plan

Figure 3.2 % Cycling to Work by Origin in Clacton





Appendix C

Decision notice
(car park extension)



TENDRING DISTRICT COUNCIL

Planning Services

Council Offices, Thorpe Road, Weeley, Clacton-on-Sea, Essex CO16 9AJ

AGENT: Mr Peter Le Grys - Stanfords
The Livestock Market
Wyncolls Road
Colchester
Essex
CO4 9HU

APPLICANT: St John's Nursery
C/o Agent

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 17/01770/FUL

DATE REGISTERED: 13th October 2017

Proposed Development and Location of the Land:

**Extension to car park.
St Johns Plant Centre Earls Hall Drive Clacton On Sea Essex**

THE TENDRING DISTRICT COUNCIL AS LOCAL PLANNING AUTHORITY **HEREBY GRANT**
PLANNING PERMISSION in accordance with the application form, supporting documents and plans submitted, subject to the following conditions;

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: -

Drawing Number - Un-numbered 1/1250 Location Plan, and;

Drawing Number 1789-04 - Car Parking Layout Plan.

Reason - For the avoidance of doubt and in the interests of proper planning.

- 2 The vehicle parking areas hereby approved shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the site.

Reason - To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 3 Within one month of the date of this permission, details of the amount, location and design of secure bicycle and powered two wheeler parking facilities shall be submitted to the Local Planning Authority for approval. The approved facility shall be provided within two months of the approval of the details and retained for that purpose at all times.

Reason - To ensure an appropriate level of parking facility for powered two wheelers is provided in the interest of highway safety and amenity in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 4 Within two months of the date of this permission, a close-boarded fence of 1.8m - 2.0m in height shall be provided along the entire southern boundary of the site, and shall thereafter be so retained.

Reason - In order to ensure that car headlights and general noise from the car-park does not impact on the amenities enjoyed by the occupants of nearby dwellings.

- 5 Notwithstanding the submitted details, within one month of the date of this permission, details of the position and luminance of any lighting for the car park shall be submitted to the Local Planning Authority for approval. Once approved, the lighting should not be altered, and no further car park lighting shall be installed.

Reason - In order to ensure that car park lighting does not impact on the amenities enjoyed by the occupants of nearby dwellings.

DATED: 8th December 2017

SIGNED:



Catherine Bicknell
Head of Planning

IMPORTANT INFORMATION :-

The local planning authority considers that the following policies and proposals in the development plan are relevant to the above decision:

NPPF National Planning Policy Framework

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

ER7 Business, Industrial and Warehouse Proposals

EN16 Agricultural and Related Development

COM22 Noise Pollution

EN1 Landscape Character

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SP2 Spatial Strategy for North Essex

SP6 Place Shaping Principles

SPL1 Managing Growth

SPL3 Sustainable Design

CP1 Sustainable Transport and Accessibility

PP13 The Rural Economy

Positive and Proactive Statement

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

Advice of the Highway Authority

NOTE: - Public Rights of Way - The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public rights and ease of passage over public footpath no1 (Great Clacton) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

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

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

INF01 Highway Works - All work within or affecting the Public Right of Way is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

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

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

INF02 Cost of Works - The Highway Authority cannot accept any liability for costs associated with a developers improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

FUTURE APPLICATIONS

The Local Planning Authority would draw your attention to the fact that this approval of a car park, does not give any indication that any future planning applications for retail or other developments at the site would be acceptable.

Earls Hall Drive is narrow and the junction arrangements with St John's Road are not considered suitable (without appropriate modification) for the level of traffic that might be generated by other developments.

You would be advised to enter in to discussions with the Highway Authority regarding the Highway situation and how it might be improved.

Standard Informative 1: The Provisions of the Essex Act 1987, Section 13 (Access for the Fire Brigade) may apply to this Development and will be determined at Building Regulation Stage.

Standard Informative 2: You are reminded that the carrying out of building works requires approval under the Building Regulations in many cases as well as a grant of planning permission. If you are in doubt as to whether or not the work, the subject of this planning permission, requires such approval, then you are invited to contact the Building Control section at Tendring District Council.

Standard Informative 3: If the development includes the construction of a new building on or at the boundary of 2 properties, work to an existing party wall or party structure or involve excavation near to and below the foundation level of neighbouring buildings, you are advised that the provisions of the Party Wall Act 1996 may apply to this development. An explanatory booklet concerning the implications of this Act is available online or from the District Council.

The attached notes explain the rights of appeal.

NOTES FOR GUIDANCE

WHEN PLANNING PERMISSION IS REFUSED OR GRANTED SUBJECT TO CONDITIONS

APPEALS TO THE SECRETARY OF STATE

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.
- If you want to appeal, then you must do so within the set time frame as outlined below:
 - a. If this is a decision to refuse planning permission for a householder application, if you want to appeal against your local planning authority's decision then you must do so within **12 weeks** of the date of this notice. A **Householder Appeal Form** is required, available online at <https://www.gov.uk/planning-inspectorate>
 - b. If this is a decision to refuse planning permission for a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within **12 weeks** of the date of this notice. A **Planning Appeal Form** is required, available online at <https://www.gov.uk/planning-inspectorate>
 - c. If you want to appeal against your local planning authority's decision on a development which is not caught by a. and b. above then you must do so within **6 months** of the date of this notice. A **Planning Appeal Form** is required, available online <https://www.gov.uk/planning-inspectorate>
- Appeals must be made using the relevant form (as detailed above) which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel: 0303 444 5000) or online at <https://www.gov.uk/planning-inspectorate>. **Please note, only the applicant possesses the right of appeal.**
- The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted permission for the proposed development or could not have granted it without the conditions imposed having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based its decision on a direction given by the Secretary of State.

ENFORCEMENT

- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of service of the enforcement notice, or within 6 months (12 weeks in the case of a householder or minor commercial appeal) of the date of this notice, whichever period expires earlier.



Appendix D

Appeal decision



Appeal Decision

Inquiry held on 24 to 27 November 2020

Site visit made on 28 October 2020

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 January 2021

Appeal Ref: APP/P1560/W/20/3256190

700 St Johns Road and St Johns Nursery site, Earls Hall Drive, Clacton on Sea

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Kelsworth Limited against the decision of Tendring District Council.
 - The application Ref 18/01779/FUL, dated 19 October 2018, was refused by notice dated 19 February 2020.
 - The development proposed is demolition of nursery buildings and dwellinghouse. Erection of 195 residential units (comprising 6 two bed houses, 87 three bed houses, 33 four bed houses, 25 five bed houses, 12 one bedroom apartments and 24 two bedroom apartments), and 8 live work units (mixed commercial units measuring 1,064 square metres in total with flats above). Associated roads, open space, drainage, landscaping and other infrastructure.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. The planning application was amended by the appellant prior to its determination by the Council. The description of the development subject to this appeal (the development) appearing on the Council's decision notice is as stated in the banner heading above and that description is accepted by the appellant.
3. While the Inquiry finished sitting on 27 November, I adjourned it, rather than formally closing it to allow for the submission of:
 - A certified copy of an executed Unilateral Undertaking (UU) entered into under Section 106 of the Town and Country Planning Act 1990 (as amended).
 - A final version of a list of suggested planning conditions agreed between the appellant and the Council, which was submitted on 4 December 2020.
 - Clarification about the proximity of the appeal site to the various Special Protection Areas for birds (SPA) and Special Areas of Conservation (SAC) and details for the SPAs and SACs (designation citations, conservation objectives and condition). This information having been submitted by the

Council on 4 December 2020 and comprises inquiry core documents (CDs) CD8.20 to CD8.25.

- Copies of any exchanges of correspondence between the Council and the Office for National Statistics (ONS) or other documentation in the public domain concerning the matter of unattributable population change (UPC) in Tendring. A note addressing this matter was submitted by the Council on 4 December 2020 (CD13.13).
 - Clarification about the inclusion of housing sites with resolutions to approve within the Council's calculation of its five year supply of deliverable housing sites (5yrHS), as stated in the Tendring Strategic Housing Land Availability Assessment of May 2020 (SHLAA) (CD6.3). This clarification was provided by the Council on 4 December 2020 in CD13.11 and CD12, supplementing the information provided by the Council in CD13.10.
4. The Council refused planning permission for five reasons (RRs). However, at the pre-inquiry case management conference held on 24 September 2020 the Council advised that it would not be 'pursuing' (defending) the third RR (living conditions for adjoining residents). The Council in the proof of evidence (PoE) provided by its planning witness¹ restated its intention not to defend its third RR. Notwithstanding the Council's position with respect to the third RR I have had regard to the representations made by residents concerning their living conditions.
 5. The fourth and fifth RRs concerned the absence of planning obligations entered into under a legal agreement² relating to: the provision of affordable housing; financial contributions for local infrastructure provision and effects on the integrity of the SPAs and SACs, in particular, the Hamford Water SPA. The Council through the giving of its written and oral evidence, however, made it clear that in the event of the appellant entering into planning obligations relating to the matters referred to in the fourth and fifth RRs then the concerns raised in those RRs would become uncontentious.
 6. With respect to the development's effect on the Hamford Water SPA and further to a question I raised at the inquiry, the Council confirmed on 4 December 2020³ that the appeal site had incorrectly been identified as being in the zone of influence (ZoI) for this SPA and that the development should be considered as being within the ZoI for the Colne Estuary SPA, the Blackwater Estuary SPA, the Dengie SPA and the Essex Estuaries SAC. I have therefore treated the wording of the fifth reason for refusal as though it related to the aforementioned SPAs and SAC.
 7. A UU was executed by the appellant on 14 December 2020⁴. The UU contains planning obligations binding upon the appellant and its successors in title that would secure the provision of: 23 affordable homes, open space on site and enhanced footway and cycle facilities; financial contributions for education, healthcare and bus facilities; and a financial contribution to assist with the operation of the Essex Coastal Recreational disturbance Avoidance and

¹ Paragraph 1.10 of Mr Carpenter's PoE

² An agreement or unilateral undertaking entered into under Section 106

³ Within the text of a covering email from the Council submitted to the Planning Inspectorate on 4 December

⁴ A certified copy of the UU was submitted to the Planning Inspectorate on 15 December as per the timetable for its submission that was set while the inquiry was sitting

Mitigation Strategy (RAMS) to mitigate the effects of the development's occupation on the Colne Estuary SPA, the Blackwater Estuary SPA, Dengie SPA and the Essex Estuaries SAC.

8. As the planning obligations contained in the executed UU have addressed the concerns identified by the Council in its fourth and fifth reasons for refusal, I have treated those RRs as not being subject to any dispute between by the appellant and the Council. I return below to the planning obligations as other matters.
9. The adopted development plan, the Tendring District Local Plan of 2007 (TDLP), is in the process of being replaced by the emerging Tendring District Local Plan 2013-2033 (the eLP). The Council intends that the eLP will comprise two parts (sections). Section 1 of the eLP containing strategic policies and proposals that will '... apply to the whole of North Essex (including Tendring, Colchester and Braintree) ...', while Section 2 will contain policies and proposals specific to Tendring⁵. While the whole of the eLP has been submitted for examination, the two sections are being examined separately.
10. The examination of Section 1 of the eLP commenced in 2018 and was concluded on 10 December 2020 with the examining Inspector's (EI) report being made publicly available that day⁶. The EI has concluded that Section 1 of the eLP would be sound with the making of recommended main modifications and would be capable of being adopted by the Council. Further to the publication of the EI's report the appellant and the Council were given the opportunity to make written comments on any implications the EI's conclusions on the housing requirement for Tendring might have upon the cases that the parties made while the inquiry was sitting. In that regard the Council and the appellant both made comments on 18 December. The Council has advised it is expected that at a Full Council meeting on 26 January 2021 a decision will be made as to whether Section 1 of the eLP should or should not be adopted.
11. As Section 1 of the eLP has reached a very advanced stage in its preparation I consider it should be considered as being a material consideration of great weight for the purposes of the determination of this appeal.
12. The examination of Section 2 of the eLP is expected to commence following the completion of the examination of Section 1. Section 2 of the eLP therefore remains liable to change and I therefore consider that very little weight should be attached to the policies of Section 2 of the eLP for the purposes of the determination of this appeal.
13. The inquiry was formally closed in writing on 21 December 2020.

Main Issues

14. Given the Council's position with respect to the third, fourth and fifth RRs referred to above, I consider the main issues are the effect of the development on:
 - the character and appearance of the surrounding area; and

⁵ Paragraph 20 of the Council's Statement of Case (CD12.2)

⁶ The eLP examining Inspector's report and schedule of recommended Main Modifications were submitted as inquiry documents by the Council on 11 December 2020 as CD13.16 and CD13.17

- the safety and free flow of traffic on the local highway network.

Reasons

Character and Appearance

15. The site has an area of 7.6 hectares and the majority of it comprises the St John's Nursery. The nursery is occupied by glasshouses that can lawfully be used for horticulture, with the ancillary sale of produce 'grown on' at the site⁷. The site also includes a chalet bungalow and its grounds at 700 St John's Road (No 700) and part of the grounds of the bungalow at 762 St John's Road (No 762). The development would involve the removal of all of the glasshouses and the provision of a total of 195 dwellings comprising a mixture of houses, some blocks of flats and eight live work units. The proposed houses would variously be two, two and a half and three storeys in height, while the blocks accommodating the flats and live work units would be three and four storeys high. The chalet bungalow at No 700 would be demolished to provide a new vehicular and pedestrian access/estate road. In addition, there would be land take at No 762 to facilitate a new pedestrian and cycle link with St John's Road just to the east of Earls Hall Drive.
16. There is no dispute that the nursery's glasshouses are of no particular architectural merit, given their functional design. That said the glasshouses are low-rise buildings, which I found not to appear out of place, given their siting at the transition between Clacton's suburban area and the essentially open farmland characterising the area to the north of St John's Road. The proposed housing would lie behind the ribbon of bungalows, chalet bungalows and occasional two storey houses in this part of St John's Road. St John's Road at this point is generally characterised by road frontage development, with the St John's Nursery being a notable exception. The other exceptions being the Leisure Glades caravan park, benefitting from a planning permission for a 62 pitch extension⁸, and the development of houses and bungalows at and to the rear of 824 St John's Road granted planning permission under application reference 18/00379/OUT (appended to CD12.1) further to a similar proposal being allowed on appeal⁹.
17. Mr Thomas, in responding to one of my questions at the inquiry, confirmed that he was not asked by the appellant to consider redesigning the development's layout within the vicinity of the site's northern boundary, when it was decided that the thirty or so Poplar trees¹⁰ along that boundary would not be retained as part of the development. That decision being made after the planning application's submission and further to the Council's tree officer advising that it would be inadvisable for the Poplar trees to be retained within the development.
18. Replacement tree planting along the site's northern boundary, secured by the imposition of a planning condition, could be undertaken. However, such planting would take time to become established and provide any meaningful visual screening for a row of 22 houses of between two and three storeys in height. That row of 22 houses being significantly taller than the glasshouses,

⁷ Paragraph 72 of enforcement appeal decisions APP/P1560/C/18/3214046 and APP/P1560/C/18/3214047 (CD7.5)

⁸ Permission 18/00952/FUL granted on 15 April 2019 (appended to CD12.1)

⁹ APP/P1560/W/15/3002161 (CD7.7.6)

¹⁰ As identified in the submitted Arboricultural Impact Assessment (CD2.3)

with the appreciation of the mass of the glasshouses in part being mitigated by the screening afforded by the Poplar trees.

19. I share the concern expressed by the Council that there could be an incompatibility between the longer term retention of any new screen planting and the occupation of the dwellings adjoining the site's northern boundary. That being because the rear gardens adjoining the site's northern boundary would be of a limited depth and the presence of tall screen planting could affect the utility of those gardens, a number of which would serve four or five bedroom houses. The Council contends that relying on screen planting within back gardens would not be good practice, given the vulnerability of such planting to removal by the occupiers of individual properties. The imposition of a planning condition would be capable of securing the short term retention of any new tree planting. However, such a condition would not ensure that planting's retention in perpetuity, with their being no certainty that the retention of trees planted as part of the development could be secured through the making of a tree preservation order (TPO).
20. Although the development would be situated behind the existing frontage dwellings on St John's Road, it would be open to view to varying degrees by users of the public footpath running along Earls Hall Road. Given that and notwithstanding the fact that the area within the vicinity of the nursery is not subject to any special landscape designations, I consider it important that the treatment of the site's northern boundary should be handled so that the development would integrate well with its surroundings. I am not persuaded that the development would do that because of the juxtaposition of a row of rear gardens facing directly onto the open farmland to the north. I therefore consider that the appearance of this part of the development would be poor and would fail to provide an appropriate response to its context, at what would become a new point of transition between housing and the open countryside beyond.
21. I accept that the site is of a scale that could accommodate some new buildings of more than two storeys in height without such buildings becoming disrespectful of the established suburban context. However, I consider it would be inappropriate to have some two and a half and three storey houses that were sited only around 12 metres from the northern boundary. In that regard what is proposed at the nursery would depart from the approach that is expected to be followed in connection with the implementation of the 950 dwelling scheme at the nearby Rouses Farm, where built development within the vicinity of the long western boundary next to the retained farmland would mainly be of one or two storeys and no more than 10.5 metres in height¹¹. Additionally, at Rouses Farm it is expected that a 20 to 30 metre wide landscape buffer would be provided along that development's countryside boundary¹².
22. The absence of a freestanding landscape buffer along the northern boundary would also be at odds with the 'approach' promoted in the Council's landscape impact assessment for various sites, including the St John's Nursery that was

¹¹ Subject to planning application 17/01229/OUT and as shown on the building heights parameter plan for that development (CD9.1) and which is subject to a resolution to grant planning permission made on 30 May 2018 (page 25 of CD6.3)

¹² Paragraph 5.14 of Mr Russell-Vick's PoE

undertaken in 2010 (the Amec report)¹³. In the Amec report it was suggested that along the nursery's northern boundary the existing hedges should be retained to form part of a 20 metre wide 'green buffer'. Within Appendix 4 of the Amec report site specific 'Potential Settlement Impact Mitigation' measures were identified and for sites 1/3 and 1/4 the provision of a '... strong defendable landscape boundary along the northern perimeter ...' was recommended.

23. While the Amec report does not have the status of formally adopted local planning policy or guidance, within the context of testing the capacity for potential new housing sites, it does outline an approach for how in very general terms the nursery might be redeveloped in a manner intended to be respectful of its context. Within the Amec report an indicative density of 25 dwellings per hectare (dph) was put forward for the nursery. The suggested approach for the nursery being outlined without being influenced by any particular proposal for this site and against the backdrop of Policy HG7 of the TDLP indicating that new housing should be provided at a minimum of 30 dph.
24. I recognise that in places the site's existing buildings and boundary treatments do not have an attractive appearance when they are viewed from Earls Hall Road. That said I am not persuaded that the development when viewed from Earls Hall Drive '... would offer a substantially improved visual experience for walkers and residents using the footpath'¹⁴.
25. It is proposed that eighteen houses would have rear gardens backing onto the site's eastern boundary. However, the site's eastern boundary is not as publicly visible as the northern one and here it is proposed that the existing trees would be retained. Those existing trees, predominantly Oaks ranging between 7.0 and 18 metres in height¹⁵, would be towards the ends of longer gardens, when compared with the garden depths proposed along the northern boundary. I therefore consider the well established trees adjoining the eastern boundary would be less susceptible to removal compared with the screen planting intended for the northern boundary, with there being scope to secure the former's retention through making TPOs. I therefore consider the layout and design of the development within the vicinity of the site's eastern boundary to be unobjectionable.
26. Many of the houses and the flat blocks would be taller than the ribbon of dwellings on the northern side of St John's Road and some of those new dwellings would be visible through the roof level gaps between the existing dwellings. However, I consider that only fleeting or distant views of the new houses and flat blocks from St John's Road and further afield to the south would be possible. In that respect I am of the view that the new dwellings would not have an overt presence and that in the views from the south this development would not adversely affect the area's character and appearance. Discounting any views from Earls Hall Road I am also of the view that the proposed development would not appear out of place when viewed from further afield to the east or west.

¹³ Identified as part of 'Land North of St John's Road and North of Cann Hall Estate, Clacton (Sites 1/3 and 1/4) in Appendix 3 of the Amec report submitted as Appendix 1 to Mr Robinson's PoE

¹⁴ Paragraph 4.40 of Mr Robinson's PoE

¹⁵ As identified in the Arboricultural Impact Report of December 2019 (CD2.3)

27. As I have indicated above, I consider buildings of more than two storeys need not necessarily be objectionable at the nursery. Block C would be a four storey building and this building was originally designed to have a fully flat roof. However, Block C's design was amended prior to planning permission being refused by the Council and it is proposed that it would have a mixed pitched and flat roof form. While the pitched roof elements of Block C would be in sympathy with the roof types characterising this suburban location, I consider Block C would be of a scale that would be uncharacteristic of its surroundings, with there being a reliance on what for this area would be a unique flat roofed central spine. I consider that the inclusion of that flat roof element in Block C's design is indicative of this building being over scaled.
28. The development because of its backland nature would be served by a comparatively long and eleven metre wide estate road, comprising a vehicular carriageway, footways along each side and planting on its eastern side. While such a long estate road approach into the heart of the development would be uncharacteristic of its surroundings, I do not find this aspect of the scheme of itself to be objectionable. That is because for vehicular users of St John's Road passing by, the length of the estate road would not be immediately apparent, while for pedestrians using St John's Road the length of the access would be of no particular consequence. For prospective occupiers of the development, should they find the appearance of the main access to be functionally disagreeable that would be a factor that they could take into account when making decisions about whether or not to live in the development.
29. The Council has expressed the view that it is unclear why Earls Hall Drive has not used as the vehicular access¹⁶. However, as part of the pre-application discussions that took place between the appellant, the Council and Essex County Council Highways (ECC), it appears that ECC was concerned by the prospect of Earls Hall Drive being used as the vehicular access, given its status as a public footpath, and promoted the formation of a new access to the east¹⁷. Even if Earls Hall Drive was to be used as the vehicular access for the development, it would still be served by a relatively long estate road and that would not overcome the Council's concern about the length of the access.
30. The first RR contends that should the development be granted planning permission that would set a 'precedent' for similar developments. However, individual developments should be considered on the basis of their individual circumstances and as no directly comparable sites have been identified by the Council, I consider there to be no merit in the precedent concern raised in the first RR.
31. For the reasons given above I conclude that the development, in particular, along its northern boundary would have an unacceptable effect on the character and appearance of the area. I consider that the harm I have identified would give rise to conflict with Policies QL9 and QL11(i) of the TDLP. That is because the development would not maintain or enhance the local character of the area, with the siting, height, scale and massing of the houses along the development's northern boundary being unacceptable, with the design and layout of those houses failing to incorporate existing site features of the landscape, namely the Poplar trees, while the replacement northern

¹⁶ Paragraph 5.13 of Mr Russell Vick's PoE and paragraph 6.8 of Mr Carpenter's PoE

¹⁷ Letter of 9 February 2016 from the Council to the appellant forming Appendix 1B of the overarching SoCG (CD12.3A)

boundary planting has not been designed to function as an integral part of the new development.

32. I also consider that there would be some conflict with the seventh criterion of Policy HG13 of the TDLP. That is because as backland development, as defined for the purposes of Policy HG13, the northern part of the development would be out of character with the area. However, as I have found that the main estate road access would not cause visual detriment within the streetscene, I consider that this aspect of the development would accord with Policy HG13's third criterion.
33. Section 12 (Achieving well-designed places) of the National Planning Policy Framework (the Framework) addresses the quality and appearance of new development. Given the harm to the character and appearance of the area that I have identified, I consider that the development would be contrary to paragraphs 124 and 127 of the Framework insofar as it would not be of a good design, with it failing to add to the overall quality of the area and there being some potential for the landscaping and rear garden areas along the northern boundary not to function well together over the lifetime of the development. I also consider that there would be conflict with the National Design Guide, most particularly paragraphs 40 to 42, 51 and 52, because elements of the development's design would not relate well to its local context or respond to the existing local character.

Highways

34. The second RR in essence identified a concern about the ability of the estate road's junction with St John's Road to operate in unison with the traffic light controlled junction proposed for Rouses Farm, which would be around 110 metres to the east¹⁸. The Council arguing as part of its appeal case that should these two junctions not operate in unison then there would be the potential for queuing right turning traffic waiting to enter the Rouses Farm to impede (block) right turning traffic from entering the development's estate road. Should such blocking arise it has been further submitted that would impede the flow of westbound through traffic on the B1027.
35. An additional limb to the Council's case advanced by its three highways witnesses is that during the summer months, June through to September¹⁹, there is a seasonal increase in the use of the B1027/St John's Road, which has not been adequately assessed by either the appellant or ECC as the local highway authority. It being submitted that a seasonal increase in the use of the B1027 arises from vehicular movements generated by the summertime occupation of the large number of static homes and other holiday accommodation in the area.
36. A local resident, Mr Everett, also made submissions at the inquiry raising concerns about: how the traffic arising from the development had been quantified and the effect of that traffic on the operation of the local highway network; and the design of the junction between the estate road and St John's Road, most particularly the absence of the provision of a right turning/ghost lane.

¹⁸ With there being 97 metres between the stop line for the signal controlled Rouses Farm junction and the appeal site's proposed junction with St John's Road (paragraph 4.1 of the Technical Note forming Appendix RF-D to Mr Fitter's PoE

¹⁹ As clarified variously through the giving of the evidence of Mr Williams, Mr Cosier and Councillor Bray

37. The Council's inclusion of a highways reason for refusal was against a backdrop of there being no objection from ECC to the development. That said from the brevity of ECC'S formal consultation response of 29 January 2020 to the Council²⁰, it is far from clear how the highway authority actually assessed the appellant's Transport Assessment (TA - CD1.88) and arrived at its conclusion that *'From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority ...'* subject to the provision of some mitigation measures.
38. A little more can be gleaned from ECC's letter of 1 May 2020 to St Osyth Parish Council²¹ in which it commented *'As with all large planning applications the Highway Authority has undertaken extensive investigation and analysis of the submitted transport assessment and travel plan accompanying this planning application. This work has concluded that the proposal is not contrary to current National and Local policy and safety criteria and has been found acceptable to the Highway Authority in terms of its impact upon the local highway network'*. Mr Fitter in giving his evidence in chief for the appellant also remarked that ECC did ask 'searching questions' of him. Be that as it may, the absence of any meaningful reasoning in ECC'S consultation response I can appreciate was distinctly unhelpful to the members of the Council's planning committee.
39. The appellant's comparison of the existing and proposed trip rate generation in section 8 of the TA has been criticised. That criticism revolving around how the vehicular movements generated by the existing use of the nursery have been calculated, given that the site was only partially in use when the TA was prepared and the TRICS database²² does not address horticultural 'nurseries with ancillary garden centres' (paragraph 8.3 of the TA). Given those circumstances an existing trip generation calculation was performed by the appellant based on the expected trip rate for the use of the 253 space car park extension granted planning permission under file reference 17/01770/FUL on 8 December 2017. The results from that calculation are shown in Table 8.1 of the TA, with the number of movements (ie arrivals and departures) during the AM peak (08:00 to 09:00), PM peak (17:00 and 18:00) and the whole day, respectively estimated at 37, 18 and 1,841 movements.
40. While making comparisons between existing and proposed trip generation in TAs is well trodden ground, in this instance I do not consider that exercise to have been particularly informative. That is because the TA was written around a month after the issuing of an enforcement notice on 14 September 2018 requiring the cessation of various non-horticultural uses at the nursery. Those uses subsequently having been confirmed as being unlawful through the determination of the enforcement notice appeals on 5 December 2019. Consequently, the existing use estimate of 1,841 movements per day in the TA was excessive.
41. Given the brevity of ECC'S formal response to the Council, which post dated the determination of the enforcement notice appeals, it is very unclear what weight ECC may have placed on the existing and proposed trip generation

²⁰ Letter contained in CD3.4

²¹ Appendix 4 to Mr Williams PoE

²² The recognised database used by transportation professionals to make predictions for trip rates and traffic generation for new developments

comparison made in the TA. That said, I consider what is of consequence in this instance, given the proposal to create an entirely new estate access, is the volume of vehicular traffic the development would be likely to generate and whether or not the local highway network could accommodate that traffic alone, as well as in combination with expected traffic growth in the area.

42. With respect to the assessment of the effect of the development's traffic on the operation of the local highway network, the appellant has placed reliance on an automated traffic count undertaken in April 2017. April being recognised as a 'neutral' month for the purposes of undertaking traffic surveys, ie one unaffected by school holiday periods. Mr Fitter in giving his evidence confirmed that the extant national guidance relating to the assessment of traffic flows is stated in the Planning Practice Guidance (PPG) and it states:

'In general, assessments should be based on normal traffic flow and usage conditions (eg non-school holiday periods, typical weather conditions) but it may be necessary to consider the implications for any regular peak traffic and usage periods (such as rush hours). Projections should use local traffic forecasts such as TEMPRO drawing where necessary on National Road Traffic Forecasts for traffic data'²³.

43. There is therefore nothing unusual about the appellant relying on a traffic survey that was undertaken in April, as opposed to one conducted during a summer month. In that regard Mr Fitter commented that in some areas, such as Dorset and the Lake District National Park, applicants are required to undertake traffic surveys during the summer months. However, neither ECC nor the Council through their policy or guidance require summer surveys to be undertaken. If the seasonal increase in the use of the B1027 was at a level that had become a significant issue year on year, then I would have expected it to be something that ECC and/or the Council would be familiar with and would be a matter that all developers were being requested to take account of when submitting their TAs. However, there seems to be no history of this seasonality issue having been raised previously with developers, with the TAs for seven applications, including Rouses Farm, having been reviewed by the appellant in that regard²⁴.
44. With respect to the operation of the junctions for the development and Rouses Farm with St John's Road, the appellant has undertaken sensitivity testing to indicate how much extra traffic attributable to a seasonal effect would be required for those junctions to exceed their 'functional' capacities and cause unacceptable levels of congestion. In the case of simple priority junctions, such as that proposed for the development, their operational capacity is measured in terms of the ratio to flow capacity (RFC), with the functional maximum for this type of junction considered to be an RFC of 0.85. For signal controlled junctions their operational capacity is measured by reference to the degree of saturation (DoS), with the functional capacity usually taken to be a DoS of 90%.

²³ Paragraph: 015 Reference ID: 42-015-20140306

²⁴ Paragraph 3.5 of Mr Fitter's rebuttal statement

45. The results of the appellant's sensitivity testing are summarised in paragraph 3.10 of Mr Fitter's rebuttal statement as:

'The baseline traffic flows could be increased by 15% in the AM peak and 38% in the PM peak before the proposed Rouses Farm traffic signals exceed 90% DoS on any approach. The baseline traffic flows could be increased by 31% in the AM peak and 41% in the PM peak before the proposed site access junction would exceed RFC 0.85.'

46. The Council has provided no empirical evidence challenging the reliability of the appellant's sensitivity testing for the effects of seasonality on the flows of traffic. I therefore consider that I can only reasonably be guided by the appellant's sensitivity evidence.
47. On the evidence available to me, I consider that the appellant's reliance on a traffic survey conducted in April, rather than between June and September, reveals no significant deficiency in the appellant's TA and the conclusions drawn from it by ECC. What has also become apparent through the presentation of the Council's evidence is that throughout the whole of the period that ECC was considering the appeal development it had available to it the results from the traffic survey commissioned by it and undertaken during June and July 2018 concerning part of the B1027 to the west of the nursery²⁵. Those survey results being for part of the summer period and appearing not to demonstrate to ECC that there was a seasonal traffic flow issue that the appellant needed to address before EEC could make its consultation response to the Council. Consequently, for the purposes of the determination of this appeal I consider the traffic seasonality issue that has been raised attracts little weight.
48. It has been contended that the absence of a right turning lane at the junction between St John's Road and the estate road would not comply with the design standards for such junctions, most particularly CD123²⁶ of the Design Manual for Roads and Bridges (DMRB)²⁷. The DMRB being requirements and guidance published by Highways England (HE) primarily for the purposes of guiding the design of new or altered parts of the strategic highway network (motorways and some A class roads) for which HE is the highway authority.
49. Local highway authorities, such as ECC, do not have to apply the requirements and guidance contained in the DMRB to the roads they have jurisdiction over. In considering the effects of the development on the operation of the B1027 there is therefore no compulsion to apply the provisions of CD123, something Mr Fitter confirmed in response to a question I put to him.
50. To prevent queued vehicles waiting to turn right into the estate road from impeding the flow of westbound traffic on St John's Road it has been argued that a right turning lane, a 'major road central treatment' (which include 'ghost islands') in the language of CD123, should form part of the development's design. Paragraph 2.3.1 of CD123 states that *'The selection of priority junction and major road central treatment for single carriageway roads should be determined based on the standard of major road and traffic*

²⁵ Pump Hill and Bypass Road contained in Appendix 6 of Mr Williams PoE

²⁶ 'Geometric design of at-grade priority and signal-controlled junctions'

²⁷ CD13.4

flows on both the major and minor roads. Figure 2.3.1 illustrates approximate levels of provision for varying traffic flows. Figure 2.3.1 indicates that below a flow of 13,000 two-way annual average daily traffic (AADT) on a junction's major road the provision of a 'simple' priority (T-type) junction would usually be appropriate. Figure 2.3.1 also indicates that ghost island provision would be appropriate where the major road has a two-way AADT of between 13,000 and 18,000.

51. Paragraph 2.3.1 and Figure 2.3.1 of CD123, however, need to be read in conjunction with the 'Note' immediately following them. That note states *'The 2-way AADT design year flows are used to determine the approximate level of junction provision prior to more detailed traffic modelling to check capacity'*. The note in CD123 indicates that a flow of over 13,000 AADT is not an absolute threshold for providing right turning lanes, with that AADT being a level at which more detailed traffic modelling should be undertaken to determine whether something other than a simple junction would be necessary. Mr Fitter in his rebuttal statement (paragraphs 7.9 to 7.11) explained that is the process that was followed.
52. The capacity for the estate road's junction with St John's Road was modelled by the appellant using the Transport Research Laboratory's 'PICADY' software. The results of that modelling in October 2018 were included as Appendix I in the appellant's TA and were therefore available to ECC when it was considering the proposed development. It is apparent from ECC'S email to the Council of 2 September 2019²⁸ that it was mindful of the possible need for a right turning lane to be provided because it commented:

*'The other key point is the dedicated run turn lane; I note from the Stage 1 Safety Audit there were concerns about potential rear end shunts if one was not provided and the designers comments appear to suggest that there is spare capacity not to warrant a dedicated right turn lane. At the very least we would like to see the Safety Audit recommendation: **to carry out further assessment and analysis of the traffic model to determine the appropriate level of right turn provision required.** The reason being due to the size of development and current attributes of the road we would normally have a dedicated right turn lane incorporated in the proposals.'* (The highlighting of text being as used by ECC)

53. It however appears that ECC in making the above quoted comments failed to recognise that when the safety audit findings of 14 February 2019 were submitted to it on 11 June 2019, the designer's (Mr Fitter) response (21 February 2019) to the audit's findings had been included²⁹. It also appears that the appellant's safety auditors were unaware of a junction capacity analysis having been undertaken in advance of being instructed to conduct an audit, with neither the TA nor the PICADY output data being available to the auditors³⁰.
54. The appellant has modelled the effect of the development's traffic on the operation of the Rouses Farm junction using 'LinSig' software. That modelling has identified a mean maximum queue for passenger car units (PCUs) turning

²⁸ Appended to Councillor Bray's PoE

²⁹ Appendix C of Mr Fitter's PoE

³⁰ Appendix A of the Stage 1 Road Safety Audit in Appendix C of Mr Fitter's PoE

right into the Rouses Farm access of 22.1 vehicles³¹, assuming an average vehicle length of 5.5 metres. A queue of 22 vehicles waiting to enter Rouses Farm would extend back to the access for the development, with there being 97 metres³² between the stop line for the traffic signals and the estate road for the development. 97 metres being sufficient to accommodate 17.6 PCUs. A queue of 22 vehicles could therefore block right turns being made into the development's estate road and go onto impede the flow of westbound traffic on St John's Road. However, for that to happen eastbound drivers would have to fail to observe Rule 151 of the Highway Code (Rule 151) and cause entry into a side road to become blocked³³.

55. I consider a mean maximum queue length of 22 vehicles would be very much at the worst case end of possible queue lengths. That is because the figure of 22 vehicles would equate to the average of the maximum queue length, rather than the average of all queue lengths for vehicles turning into Rouses Farm.
56. A queue length of 22 vehicles in practice would therefore likely to be an exception and not the norm for vehicles seeking to enter Rouses Farm. Additionally, for queues of that length to actually block vehicles seeking to enter the development's estate road and also impede westbound through traffic, there would also need to be vehicles waiting to make a right turn into the development. So, for the mean maximum queue length to be of significance for westbound traffic on St John's Road it would need to coincide with times when there were also vehicles waiting to turn right into the development and Rule 151 was not being observed. The effect of the non-observance of Rule 151 being something that might be alleviated through the use of 'keep clear' markings or a 'box-junction' (yellow hatching), as alluded to in section 7 of Mr Fitter's rebuttal statement.
57. Mr Fitter has submitted in his evidence that the capacity analysis that has been performed is subject to some double counting of future traffic growth. That is because in line with standard practice the baseline (2017) traffic flow for the B1027 has been subjected to a growth multiplier (national road traffic forecast [NRTF]) to derive a flow for 2023, which is the development's notional completion year used in the TA. To that future year figure the predicted traffic from both Rouses Farm and the development has been added, even though Rouses Farm is a committed development and would be accounted for in the NRTF multiplier. Mr Fitter in his evidence in chief also advised that the nursery's existing traffic generation had not been deducted from the baseline traffic flow used to prepare the TA.
58. Additionally, all of the junction capacity modelling has been undertaken on the basis of the development being for 210 dwellings, as originally proposed, and not 195 dwellings as now proposed. Mr Fitter in giving his evidence in chief also advised that no trip rate distinction had been made between the market and affordable dwellings within the development, even though in TRICS it is recognised that affordable homes generate lower rates. I consider that when all of the foregoing factors are taken into account the assessment of the effects of the operation of the development's junction with St John's Road alone and in conjunction with the operation of the Rouses Farm junction has

³¹ Appendix E of Mr Fitter's PoE

³² Paragraph 4.1 of the Technical Note included within Appendix D of Mr Fitter's PoE

³³ Paragraphs 7.13 and 7.14 of Mr Fitter's rebuttal statement

been undertaken on a reasonable and robust basis, with the traffic generation predictions for the development being subject to some double counting and overestimation.

59. The development would cause some additional use of St John's Road and that could affect the entry or exit to the existing dwellings in the vicinity of the appeal site. However, I consider the amount of additional traffic using this part of St John's Road associated with the development would not be so great as to cause unacceptable delays to the entry or exit to the existing nearby dwellings.
60. For the period between 2017 and 2019 there were seven personal injury accidents (PIAs) on St John's Road within the vicinity of the nursery and the appellant has submitted that accident rate is below average for a road of this type, with the available data showing '... no significant patterns or clusters'³⁴. Mr Fitter in response to a question I put to him commented that the cause of the accidents between 2017 to 2019 were the result of driver error and/or interactions as opposed to the nature/condition of St John's Road. Regrettably there was a fatal accident in April 2020, however, the investigation into the cause of that accident is ongoing. I consider the available evidence has not demonstrated that the use of the development's access would adversely affect highway safety in the area.
61. Above I have referred to ECC'S formal consultation response to the Council being very brief. Notwithstanding that I consider there can be no doubt that ECC considered the need for the provision of a right turning lane and was satisfied, on the basis of the information available to it when it made its formal comments to the Council in January 2020, that the development could be granted planning permission without such a turning lane being provided. In that regard it is evident from the contents of the letter sent to St Osyth Parish Council on 1 May 2020³⁵ ECC made a conscious decision to require the provision of a combined footway and cycleway rather than a right turning lane, given that within the vicinity of No 700 there was insufficient highway land available to accommodate both, as confirmed by Mr Fitter at paragraph 4.29 of his PoE.
62. It has been contended that inadequate consideration has been given to the provision of a right turning lane. By extension it has been argued that ECC reached an incorrect conclusion about the need for a right turning lane. However, no empirical evidence has been submitted by the Council demonstrating that ECC should not have reached its conclusion on the adequacy of the development's junction and I am not persuaded that I should reach a contrary view to that held by the highway authority.
63. It is evident that the Jaywick Lane junction and some of the other junctions to the east of that junction are already operating above or close to their capacities, with some mitigation measures expected to be provided as part of the implementation of the Rouses Farm development³⁶. Those junction capacity issues are likely to be contributing to the travel delays variously referred to by the Council's highway witnesses.

³⁴ Section 5 of Mr Fitter's rebuttal statement

³⁵ Appendix 4 of Mr Williams' PoE

³⁶ Section 6 of Mr Fitter's rebuttal statement and the planning conditions expected to be imposed on the planning permission for Rouses Farm listed in the committee minutes of 12 March 2019 appended to CD12.1

64. The additional traffic generated by the nursery's redevelopment, on the face of it, could have the potential to exacerbate the congestion at the existing junctions to the east. That is because there is currently uncertainty about when the mitigation to be provided by the Rouses Farm development will be delivered, given the current absence of a planning permission for that scheme, and the appeal development could be occupied in part, if not wholly, prior to the junction improvements being delivered³⁷. However, the appellant has argued that the traffic generated by the development would '*... result in a very low proportional increase in traffic at any other junction on the local highway network*'³⁸. The peak hour proportional increases for the Jaywick Lane roundabout having been assessed as being no more than 3% for any arm, a net increase that would be less than the daily variation³⁹. In the absence of any empirical evidence having been presented demonstrating that the development would generate anything other than a low proportional increase in traffic at the junctions to the east, I share the appellant's view that there would be a negligible effect on the operation of those junctions.
65. For the reasons given above I therefore conclude that the proposed development would not adversely affect the safety and free flow of traffic on the local highway network. I therefore consider that the development would accord with Policies QL10(i) and HG13(iii) of the TDLP because the access to the site would be practicable and the highway network would be able to safely accommodate the additional traffic the proposal would generate.
66. The second RR cites conflict with Policy TR1a (development affecting highways) of the TDLP. However, Policy TR1, rather than Policy TR1a, has been identified as a 'most relevant' development plan policy in the 'General' Statement of Common Ground (SoCG- CD12.3A). Mr Fitter at paragraph 3.21 of his PoE has referred to Policy TR1a as having been 'erroneously' referred to in the second RR and instead he has drawn attention to Policy TR1 (transport assessment) of the TDLP, without recognising that Policy TR1a is a policy in its own right.
67. Given the nature of objection to the development stated in the second RR and as Policy TR1a concerns development affecting highways, I am of the view that Policy TR1a was correctly cited in the RR. I consider there would be no conflict with Policy TR1a because there would be no unacceptable hazards and inconvenience to traffic. For completeness I also consider that the development would accord with Policy TR1, given that a TA has been submitted and it does not indicate that the development would have materially adverse impacts on the transport system.
68. I also consider that there would be no conflict with paragraphs 108, 109 and 127f) of the Framework because there would be no residual cumulative impacts on the road network that would be severe warranting the refusal of planning permission.

³⁷ Based on Mr Robinson's response to the development timetabling question I raised with him at the inquiry and the initial build rate of 30 dwellings per year rising to 60 dwellings per annum as envisaged for Rouses Farm (Appendix 4 of the SHLAA)

³⁸ Page 8 of the appellant's closing submissions (CD13.15)

³⁹ Section 9 of the TA

Other Matters

Living conditions

69. With respect to the siting of the development relative to the existing dwellings in St John's Road I consider that there would be sufficient separation for there to be no unacceptable overlooking of the adjoining homes. In that regard there would be no conflict with Policy QL10 of the TDLP.

Affordable housing

70. The submitted UU would require the provision of 23 affordable homes (approximately 12%) on site. While that level of provision would be less than the 40% expectation stated in Policy HG4 of the TDLP the Council is now promoting 30% affordable housing provision. In this instance the Council recognises that the demolition of the glasshouses would represent a significant abnormal cost affecting the development's viability and its ability to provide affordable homes.
71. The Council is content that for viability reasons the provision of 23 affordable homes would be appropriate and I see no reason to depart from that view. I therefore consider that the development would make adequate affordable homes provision under of Policy HG4 of the TDLP and would be consistent with the policy for the provision of affordable housing set out in the Framework.

Effects on infrastructure

72. To mitigate the development's effects on local infrastructure the UU would secure:
- The provision of and the management for open space on the site, equivalent to at least 10 percent of the site's area.
 - The making of education contributions totalling £1,770,393 for early years/childcare, primary and secondary facilities in the area.
 - A healthcare facilities contribution of £67,666.
 - A bus services contribution of £104,000 and the upgrading of three bus stops on St John's Road.
 - The provision of a 3.0 metre wide shared footway and cycleway on the northern side of St John's Road between its junction with Earls Hall Road and extending eastwards to tie in with the footway and cycleway improvements proposed for the Rouses Farm development.
73. Those planning obligations would variously address infrastructure requirements covered by Policies QL12 (planning obligations), COM6 (provision of recreational open space), COM26 (education provision) and TR3a (provision for walking) of the TDLP. I consider that the planning obligations would be: 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. While the planning obligations are necessary, of themselves there is nothing particularly exceptional about them, as they would primarily neutralise the demand upon local infrastructure generated by the development's occupation.

Effects on the designated habitats

74. The appellant and the Council agree that the development's occupation would be likely to have an adverse effect on the integrity (AEOI) of the qualifying features (bird species) that frequent the Colne Estuary SPA, the Blackwater Estuary SPA and the Dengie SPA and the condition of the habitat within the Essex Estuaries SAC. Those effects arising from the making of additional recreational visits to the SPAs and the SAC. Having regard to the information about the SPAs and SAC available to me, I consider that this development in combination with others in the areas could give rise to AEOI for the SPAs and the SAC through additional recreational activity.
75. To avoid any increased recreational pressures causing AEOI for the SPAs and SAC the Council, along with other local planning authorities in the area, has developed and is implementing the RAMS (CD8.7). The operation of the RAMS includes the provision of a warden service with the purpose of managing and educating visitors to designated habitats. The UU would secure a RAMS' contribution of £23,848.50. I consider that the making of that contribution would be necessary to ensure that this development did not cause AEOI for the SPAs and SAC. The payment of that contribution would accord with Policy EN11a of the TDLP and the RAMS.

Whether the most important development plan policies are out-of-date

76. Paragraph 11 of the Framework indicates that the presumption in favour of sustainable development should apply. For decision taking that means:
- '... c) Approving development proposals that accord with an up-to-date development plan without delay; or*
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting planning permission unless:*
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or*
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*

Footnote 7 of the Framework states *'This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73) ...'*

77. Paragraph 73 of the Framework states:
- '... Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old³⁷.'*

Footnote 37 of the Framework states:

'... Where local housing need is used as the basis for assessing whether a five year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning guidance.'

78. Paragraph 11d)i does not apply in this instance because the nursery is not situated in a protected area and does not form a protected asset for the purposes of footnote 6 of the Framework. Under the provisions of paragraph 11d) for the purposes of the determination of this application there are two routes under which the presumption in favour of sustainable development could be engaged. The first route being the absence of a 5yrHS, while the second would be because the most important development plan policies for the determination of the application are out-of-date.

Housing land supply route

79. On 16 December 2020 the Secretary of State made a Written Ministerial Statement (WMS) providing an update on the Government's proposals for changing the way in which the standard method (SM) is calculated. On the same day amendments to the 'Housing and economic needs assessment' section of the PPG were also published. The changes to the SM will apply to cities and towns that have been specified in the PPG. Tendring is unaffected by the recently made changes to the calculation of the SM and those changes are therefore not material to the determination of this appeal.
80. The strategic policies of the TDLP are more than five years old and the appellant and the Council agree that there is no 5yrHS with respect to the need using the SM of calculation. That being confirmed in the Council's Strategic Housing Land Availability Assessment of May 2020 (the SHLAA) (CD6.3), with a supply of 4.45 years being identified in section 7 of the SHLAA. A 5yrHS of 4.45 years being based on the SM generating a local housing need of 865 dwellings per year, giving an overall five year housing requirement of 4,541 dwellings, inclusive of a 5% buffer⁴⁰.
81. I consider the appellant rightly questioned at the inquiry the inclusion of the delivery of housing from some sites that only had resolutions to grant planning permissions (resolution sites) within the 4.45 years of supply stated in the SHLAA for the period between 1 April 2020 to 31 March 2025. One such resolution site being Rouses Farm, which received its resolution to grant planning permission around two and a half years ago⁴¹ and for which the SHLAA identifies 90 dwellings being delivered by 31 March 2025. At the inquiry's close Rouses Farm continued not to benefit from a planning permission.
82. For the purposes of the determination of this appeal I requested the Council to recalculate its 5yrHS excluding all of the resolution sites which have been identified in the SHLAA as delivering dwellings by the end of March 2025. The recalculation of the 5yrHS being set out in CD13.12. In addition to Rouses Farm there are three other resolution sites which the SHLAA has assumed

⁴⁰ Tendring District Council having become a 5% buffer authority following the Government's publication of the Housing Delivery Test measurement for 2019 (CD6.3 and CD8.14)

⁴¹ 30 May 2018 - Appendix 1 of the SHLAA

would deliver a further 135 dwellings by 31 March 2025⁴². When the 225 dwellings from the four resolution sites are deducted, then there was a 5yrHS of 4.20 years on 1 April 2020⁴³, when measured against a local housing need derived from the SM. While planning permissions for two of the resolution sites have now been granted, I consider that the 94 dwellings predicted to be delivered from those sites by the end of March 2025, as identified in CD13.11, should not be treated as though permissions had existed on 1 April 2020.

83. However, under the provisions of Policy SP3 of Section 1 of the eLP an annual housing requirement of 550 dwellings a year for Tendring has been found to be sound by the EI. A housing requirement of 550 dwellings a year being significantly less than the SM derived local housing need figure of 865 dwellings per year. However, the EI at paragraph 52 of his report has commented:

'The policy SP3 requirement for Tendring is not derived from the official household projections, due to the distorting effect of those projections of errors that gave rise to exceptionally large unattributable population change [UPC] in the district between 2001 and 2011 Censuses. In IED/012 and IED/022 I set out my reasons for endorsing the alternative approach used to derive the demographic starting-point for Tendring, which in turn underpins the housing requirement figure.' (CD13.16)

84. At paragraph 54 of the eLP report the EI has further remarked that to counter the potential for worsening housing affordability in Tendring '*... the housing requirement for Tendring includes a substantial 15% affordability uplift ...*'.
85. Until Section 1 of the eLP is adopted then paragraph 73 (including footnote 37) of the Framework, advises that the SM should, rather than must, be used to establish a local housing need figure for Tendring. That national policy is a material consideration of great weight. However, the examination of Section 1 of the eLP has established that the official household projections for Tendring are subject to distortion due to errors arising from the UPC. In that regard there is evidence available demonstrating that the ONS recognises that for Tendring there is an error with the mid year estimates, which feed into the calculation of the household projections, with a '*migration error... likely to be in the range of 5-6,000 people*⁴⁴. That migration error being thought to represent 47% to 57% of the UPC for Tendring⁴⁵, with the positive UPC figure for Tendring being around 10,500 and '*... one of the biggest of any LPA in England*⁴⁶.
86. With Section 1 of the eLP so recently having been found to be sound, it seems likely that this part of the eLP, including emerging Policy SP3, will imminently progress to adoption. I consider those circumstances to be a very important material consideration, outweighing the advice in paragraph 73 of the Framework that the SM should be used. That approach being consistent with the advice stated in paragraph 48 of the Framework, because Section 1 of the

⁴² South of Ramsey Road (41 dwellings), Former Martello Caravan Park, Walton on The Naze (53 units) and Land west of Church Road, Elmstead market (41 units)

⁴³ Ie the beginning of the five year period for the purposes of the SHLAA

⁴⁴ Email of 29 November 2017 from the ONS to a consultant instructed on the Council's behalf appended to CD13.13

⁴⁵ Paragraph 13 of the examining Inspector's IED012 of 27 June 2018 appended to CD13.13

⁴⁶ Paragraph 8 of IED/012

eLP has reached such an advanced stage in its preparation. When an annual housing requirement of 550 dwellings is used and a historic shortfall allowance of 212 dwellings and a 5% buffer are added, then a total five year requirement of 3,110 dwellings has been identified by the Council in the SHLAA.

87. Against a requirement of 3,110 dwellings the Council is able to demonstrate the availability of a 5yrHS of 6.14 years, including the deduction of 225 dwellings from the four resolution sites as set out in CD13.12. A 5yrHS of 6.14 years represents a surplus of around 20% when considered against a five year requirement of 3,110 dwellings.
88. Even if the adoption of Section 1 of the eLP does not happen in January 2021, as currently envisaged by the Council⁴⁷, on the evidence available to me I consider that the SM derived local housing need figure of 865 dwellings per year is so erroneous it simply cannot be relied upon as the basis for assessing the current 5yrHS position for Tendring. That is because of the distortion caused by the UPC, with the 2014 based household projection for Tendring, an essential input into the SM, being subject to a significant statistical error that the ONS has recognised exists. Given those circumstances I consider the SM yields a deeply flawed local housing need figure for Tendring.
89. I recognise that my approach to the consideration of this matter differs to that of the Inspectors who have determined four other appeals in the Council's area drawn to my attention⁴⁸. However, there has been a very recent material change of circumstances postdating the determination of those other appeals, namely the completion of the examination for Section 1 of the eLP. That means that what was an 'interim finding' of the EI that a housing requirement based on 550 dwellings per year was likely to be acceptable, as was for example the situation when the Mistley appeal was determined on 23 December 2019, has now become a firm conclusion.
90. As I am of the view that for the purposes of the determination of this appeal the Council can currently demonstrate that a 5yrHS exists, I consider this possible route to engaging the presumption in favour of sustainable development under paragraph 11d) of the Framework does not apply in this instance.

Non-housing land supply route

91. At paragraph 4.2 of the general SoCG (CD12.3A) a large number of TDLP policies have been identified as being relevant development plan policies. Later on in this SoCG Policies QL1, QL9, QL10, QL11, HG4, HG13, TR1, TR3a, COM6, COM26, ER3 and EN11a of the TDLP have been identified as being the 'most relevant development plan policies'. For the reasons I have given above I consider that Policy TR1a of the TDLP should be added to that group of policies. Of those development plan policies, I am of the view that a distinction can be made between those that are 'relevant' and those which are 'most important for determining the application'.

⁴⁷ The Council's email of 18 December 2020 (CD13.20)

⁴⁸ APP/P1560/W/19/3239002 Land at Footh Farm, Thorpe Road, Clacton on Sea (CD7.1)

APP/P1506/W/19/3220201 Land to the South of Long Road, Mistley (CD7.2), APP/P1560/W/18/3201067 Land off Grange Road, Lawford (CD7.3) and APP/P1560/W/18/3196412 Land west of Edenside, Bloomfield Avenue, Frinton-On-Sea (CD7.4)

92. While Policies HG4, TR3a, COM6, COM26, ER3 and EN11a are relevant policies I consider they do not come within the category of being the most important policies for the determination of this application because they relate to matters that would be addressed via the planning obligations contained in the UU or be capable of being addressed through the imposition of planning conditions, most particularly with respect to the provision of the live work units.
93. As the development would involve the redevelopment of a site that is not within the settlement boundary for Clacton there would be some conflict with Policy QL1 (spatial strategy) of the TDLP. As I have found that for the purposes of the determination of this appeal there is a 5yrHS, I consider Policy QL1 is not out-of-date. However, under Section 2 of the eLP the Council intends that the nursery will be included within the settlement boundary without being allocated for a specific form of development. Given the prospective change to the settlement boundary the Council has raised no in principle objection to the nursery's redevelopment⁴⁹ and because of that background I consider the conflict with Policy QL1 of itself should not be treated as being determinative. I am therefore of the view that while Policy QL1 is a relevant policy, it is not a most important policy in this instance.
94. Of the development policies identified by the appellant and the Council as being the 'most relevant', I consider that Policies QL9, QL10, QL11, HG13, TR1 and TR1a constitute the basket of the most important policies for the purposes of determining this application. That is because those policies address general design considerations for new development. The provisions of Policies QL9, QL10, QL11 are generally consistent with the policies contained within the Framework. In addressing backland development Policy HG13 contains seven criteria and the wording of some of this policy is not wholly consistent with the Framework. However, I consider insofar as Policy HG13 seeks to achieve well designed development it is consistent with the Framework. I consider Policies TR1 and TR1a are broadly consistent with paragraphs 108b), 109 and 127f) of the Framework because they seek to ensure that new development does not unacceptably impact upon highway safety or severely impact on the road network.
95. I consider the basket of most important development plan policies for the determination of this application are for the most part consistent with the Framework and are not out-of-date for the purposes of paragraph 11d) of the Framework.

Planning balance and overall conclusions

96. For the reasons given above I have concluded that the development would have an unacceptable effect on the character and appearance of the area. I consider that harmful effect of the development is a matter of very substantial weight and importance in the planning balance. I have found that the effects of the development on the safety and free flow of traffic on the local highway network would be acceptable and that is something that weighs significantly for the development. The development, through the planning obligations included in the UU, would have a neutral effect on local infrastructure.

⁴⁹ Paragraph 5.14 of Mr Carpenter's PoE and reiterated by Mr Carpenter when he gave his oral evidence

97. I have identified the most important development policies for determining this application. Of those policies the development would be in conflict with Policies QL9, QL11 and HG13, while there would be compliance with Policies QL10, TR1 and TR1a. Nevertheless, I conclude the proposed development would conflict with the development plan when taken as a whole.
98. Paragraph 11 of the Framework establishes the presumption in favour of sustainable development. What is frequently referred to as the “tilted balance” may be engaged via two routes. With respect to housing provision, for the reasons I have given above I have concluded that the Council can currently demonstrate a five year supply of deliverable housing sites to meet its local housing need. With respect to the basket of most important development plan policies, for the reasons given above I am of the view it is not out-of-date for this case. For those reasons I consider the tilted balance should not be engaged. Having regard to my conclusion in the preceding paragraph, I consider the presumption in favour of sustainable development does not apply to the proposed development under either the provisions of the Framework or Policy SP1 of the eLP⁵⁰.
99. I have found the most important development plan policies with which the development would be in conflict, Policies QL9, QL11 and HG13, to be generally consistent with the Framework. Given that I consider significant weight should be attached to the conflict with those policies.
100. The development would provide a number of social, environmental and economic benefits. The provision of 195 dwellings, including 23 affordable homes and eight live work units, would assist in delivering new homes in the Council’s area and important social and economic benefits would arise through the construction and occupation of those dwellings. However, I consider the social and economic benefits of providing these dwellings should be tempered by the current availability of a six year supply of deliverable housing sites. I therefore attach moderate weight to the social and economic benefits arising from the provision of the proposed dwellings.
101. In visual terms there would be some environmental benefits arising from the removal of the glasshouses. However, I consider the removal of those buildings would not outweigh the harmful visual aspects of the development that I have identified. There would be some benefits arising from the provision of public open space and play space on site and the potential to enhance and create wildlife habitats on site. However, those benefits of the development would largely mitigate effects of the development and I therefore consider they attract little weight in the overall balance. While the site’s redevelopment would have the potential to remove contamination from it, there is no evidence of any such contamination being a significant issue. I therefore consider that matter attracts very little weight.
102. Overall, I consider that there are matters that weigh substantially for the development in the planning balance. However, as I have indicated above there would also be a very substantial harm. I am therefore of the view that the matters weighing positively for the development are insufficient to outweigh the significant negative harmful effect and do not indicate that a

⁵⁰ As worded in the Schedule of Recommended Main Modifications under reference MM4 in CD13.17

decision should be made otherwise than in accordance with the development plan.

103. For this case it is unnecessary for me to undertake an Appropriate Assessment (AA) under the Habitats Regulations relating to the development's effects upon the SPAs and SAC, as I am dismissing the appeal. However, if I had done so and a positive outcome had flowed from such an AA that would not have affected the planning balance or my overall conclusions.
104. I consider that the harm I have identified could not be overcome through the imposition of reasonable planning conditions. I therefore conclude that the appeal should be dismissed.

Grahame Gould

INSPECTOR

APPEARANCES

FOR TENDRING DISTRICT COUNCIL:

Robin Green	Of Counsel instructed by the Council’s solicitor
He called	
Councillor Jeff Bray	Vice Chairman of Tendring District Council’s Planning Committee, who gave highways evidence
Martin Carpenter BA (Hons) MRTPI	Director, Enplan
Ray Crosier	Local resident, who gave highways evidence
Philip Russell-Vick DipLA CMLI	Director, Enplan
Neil Williams	Local resident and Clerk to St Osyth Parish Council, who gave highways evidence

FOR THE APPELLANT:

Clive Newberry	Of Queen’s Counsel instructed by Michael Robinson of e3 Design
He Called	
Richard Fitter IEng FCILT FICE FIHE	Director of Entran Limited
Michael Robinson BA (Hons) Dip TP MRTPI	Planning consultant with e3 Design
Dominic Thomas BSc BArch	Director, Chetwoods

INTERESTED PARTIES

Richard Everett	Local resident
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INQUIRY DOCUMENTS (IDs) SUBMITTED AT OR AFTER THE INQUIRY

CD8.20	Map of Colne Estuary Special Protection Area (SPA)
CD8.21	Citation document for Colne Estuary SPA
CD8.22	Conservation Objectives for Colne Estuary SPA
CD8.23	Colne Estuary SPA feature condition summary
CD8.24	Map of Blackwater Estuary SPA
CD8.25	Citation document for Blackwater Estuary SPA
CD8.26	Conservation Objectives for Blackwater Estuary SPA
CD8.27	Blackwater Estuary SPA feature condition summary
CD8.28	Map of Dengie SPA
CD8.29	Citation document for Dengie SPA
CD8.30	Conservation Objectives for Dengie SPA
CD8.31	Dengie SPA feature condition summary
CD8.32	Map of Essex Estuaries Special Area of Conservation (SAC)
CD8.33	Citation document for Essex Estuaries SAC
CD8.34	Conservation Objectives for Essex Estuaries SAC
CD8.35	Essex Estuaries feature condition summary
CD10.1	List of draft conditions with notes (4 December 2020)
CD11.1	Certified copy of Unilateral Undertaking executed on 14 December 2020
CD13.1	Mr Newberry's Opening Statement for the appellant
CD.13.2	Mr Green's Opening Statement for the Council
CD13.3	Richard Everett's speaking note
CD13.4	CD123 Design Manual for Roads and Bridges - Geometric design of at-grade priority and signal-controlled junctions
CD13.5	The TRICS Good Practice Guide 2016
CD13.6	The Council's Presentation for the Character and Appearance roundtable discussion
CD13.7	Images supporting LPA's Presentation for the Character and Appearance roundtable discussion
CD13.8	Appellant's Presentation for the Character and Appearance roundtable discussion
CD13.9	Images supporting Appellant's Presentation for the Character and Appearance roundtable discussion
CD13.10	Note on the effect of the removal of the Rouses Farm development from the five year housing land supply

- CD13.11 Note regarding sites identified in the SHLAA (May 2020) as having resolution to grant permission
- CD13.12 Note on the effect of the removal of developments without extant consent (when SHLAA published) from the five year housing land supply
- CD13.13 Note regarding correspondence on the Unattributable Population Change
- CD13.14 Mr Green's Closing submissions for the Council
- CD13.15 Mr Newberry's Closing submissions for the Council
- CD13.16 Report on the Examination of the North Essex Authorities' Shared Strategic Section 1 Local Plan (10th December 2020)
- CD13.17 North Essex Authorities' Shared Strategic Section 1 Local Plan Schedule of Main Modifications
- CD13.18 Email of 4 December 2020 from the Council accompanying the submission of various requested documents
- CD13.19 Email of 11 December 2020 from the Council accompanying the submission of CD13.16 and CD13.17
- CD13.20 Email of 18 December 2020 from the Council commenting on the receipt of the Report on the Examination of the North Essex Authorities' Shared Strategic Section 1 Local Plan
- CD13.21 Email of 18 December 2020 from the appellant commenting on the receipt of the Report on the Examination of the North Essex Authorities' Shared Strategic Section 1 Local Plan



Appendix E

Observed traffic and distribution diagram (existing)



Survey - Observed flows 24/04/2017

Site/St John's Rd

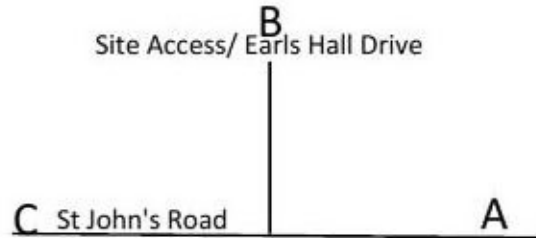
All Vehicle movement

AM Peak

x	A	B	C
A	/	0	673
B	0	/	0
C	738	0	/

PM Peak

x	A	B	C
A	/	0	606
B	0	/	0
C	742	0	/



St John/Jaywick Ln roundabout

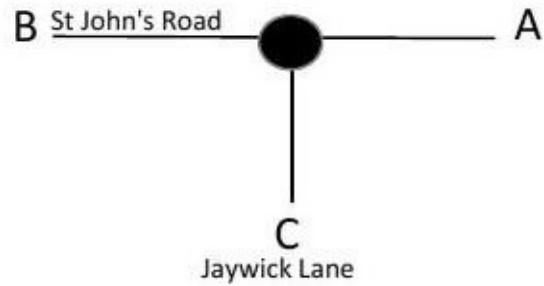
All Vehicle movement

AM Peak

x	A	B	C
A	/	413	191
B	418	/	320
C	200	260	/

PM Peak

x	A	B	C
A	/	346	208
B	456	/	286
C	191	242	/



Survey Growth - BASE - 2017 to 2023

NRTF low growth

1.044

Site/St John's Rd

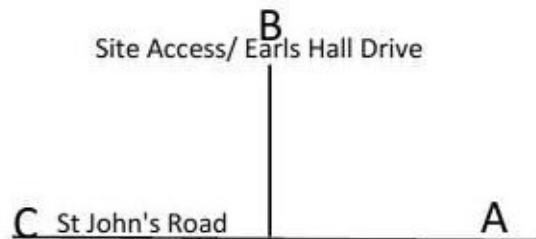
All Vehicle movement

AM Peak

x	A	B	C
A	/	0	703
B	0	/	0
C	770	0	/

PM Peak

x	A	B	C
A	/	0	633
B	0	/	0
C	775	0	/



St John/Jaywick Ln roundabout

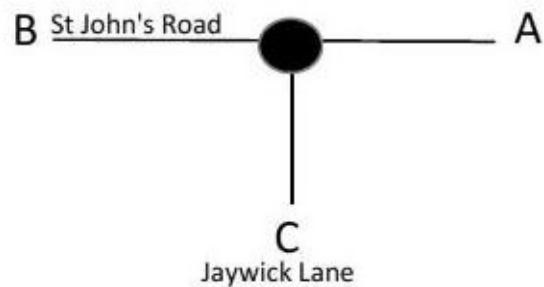
All Vehicle movement

AM Peak

x	A	B	C
A	/	431	199
B	436	/	334
C	209	271	/

PM Peak

x	A	B	C
A	/	361	217
B	476	/	299
C	199	253	/

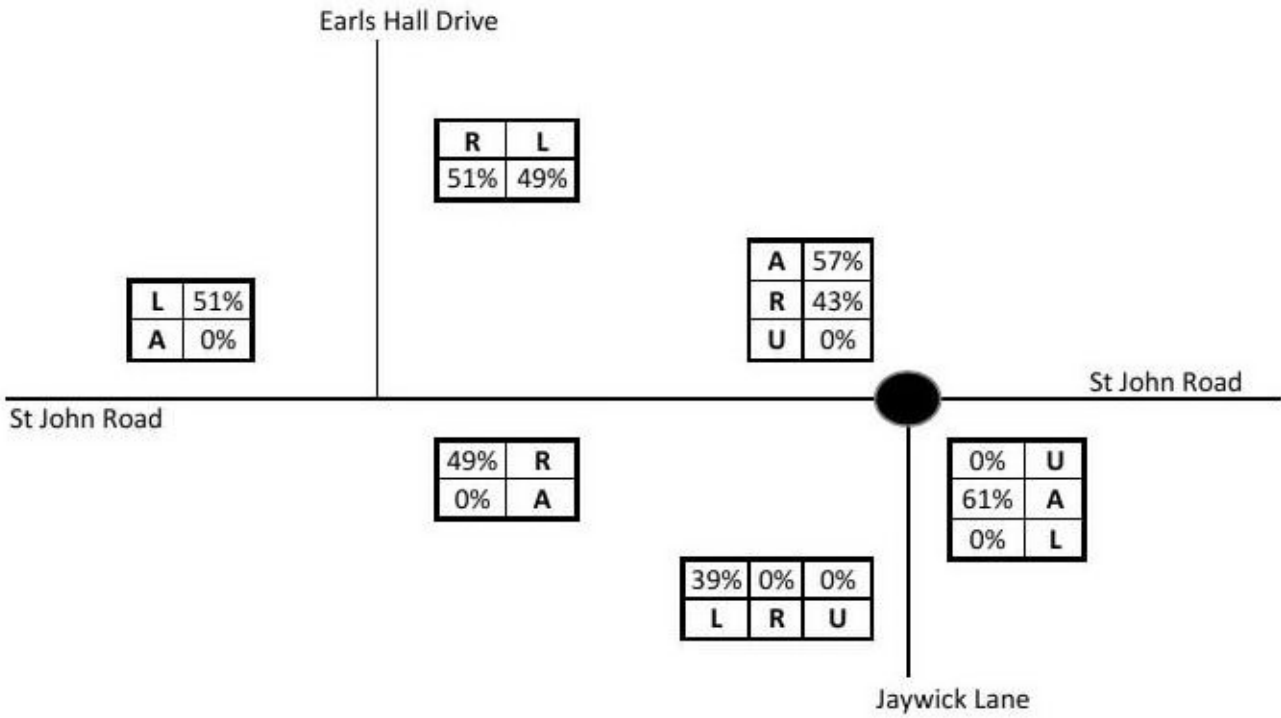




Development Traffic Distribution

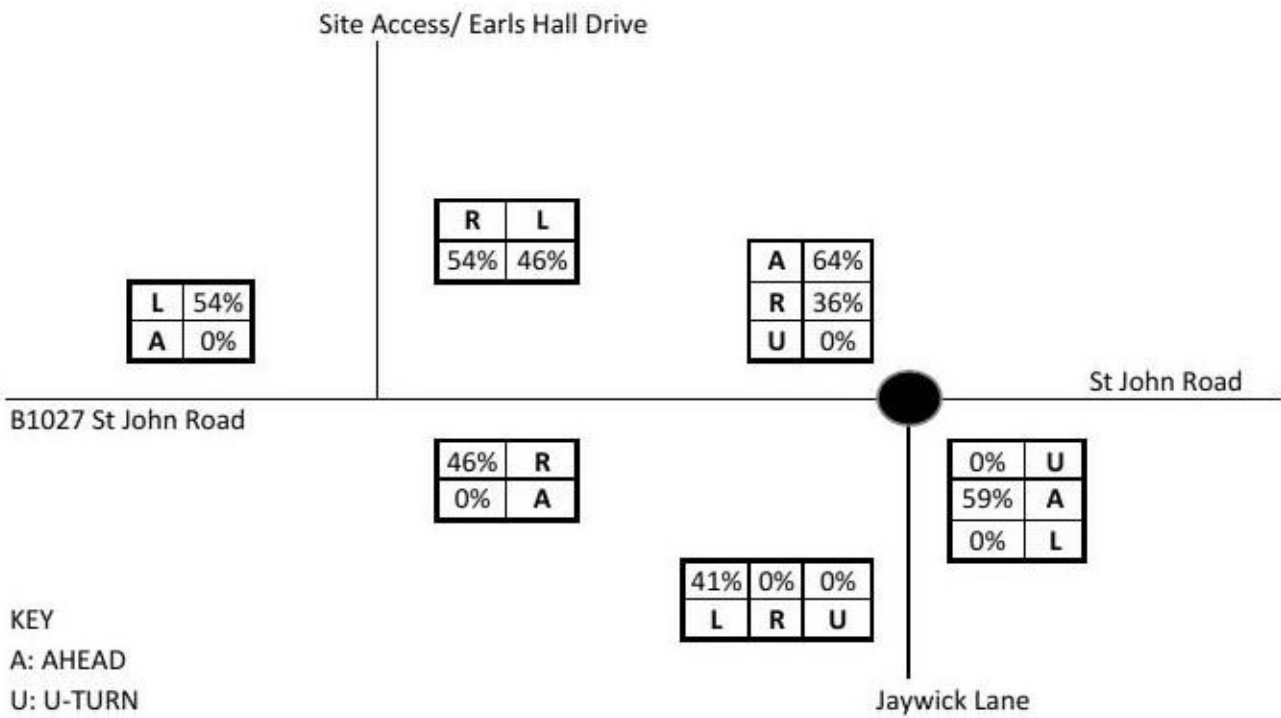
Peak Period: AM

Figure Title: Distribution



Peak Period: PM

Figure Title: Distribution



KEY

A: AHEAD

U: U-TURN

R: RIGHT TURN

L: LEFT TURN

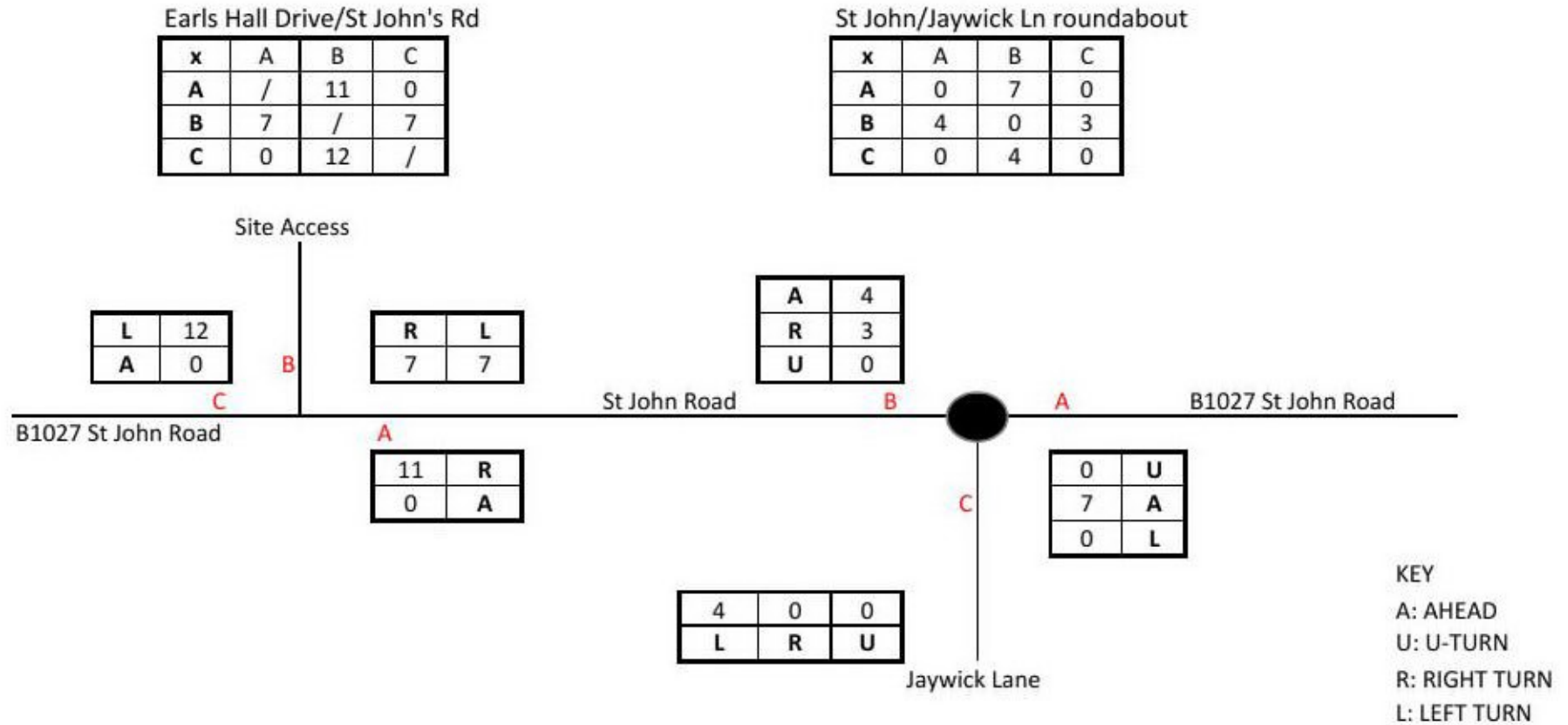


GARDEN CENTRE - CAR PARK EXTENSION

All Vehicle movement

Figure Title: Car park extension

Peak Period: AM



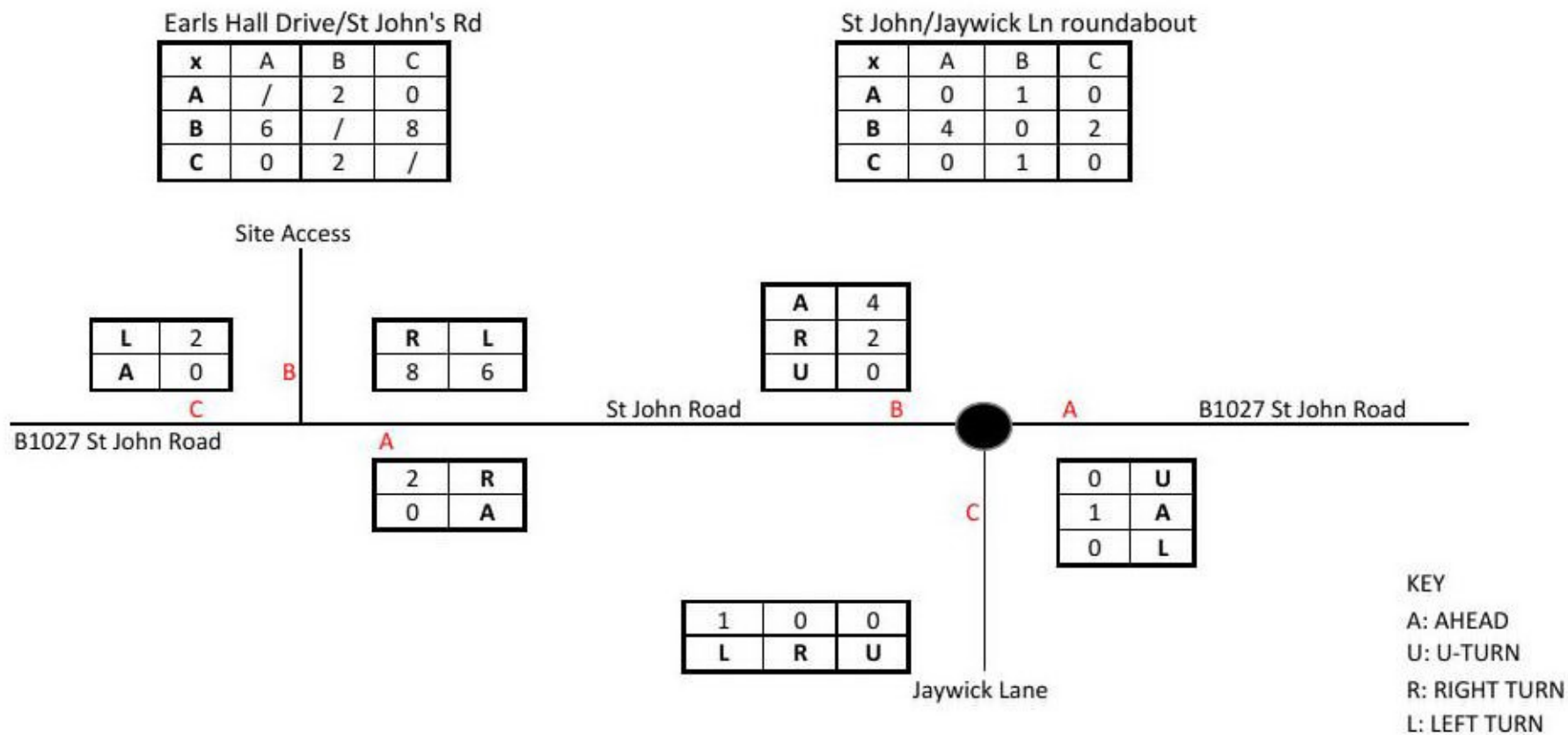


GARDEN CENTRE - CAR PARK EXTENSION

All Vehicle movement

Figure Title: Car park extension

Peak Period: PM





Base (2023) + Garden Centre

All Vehicle movement

Figure Title: Base (2023) + Garden Centre

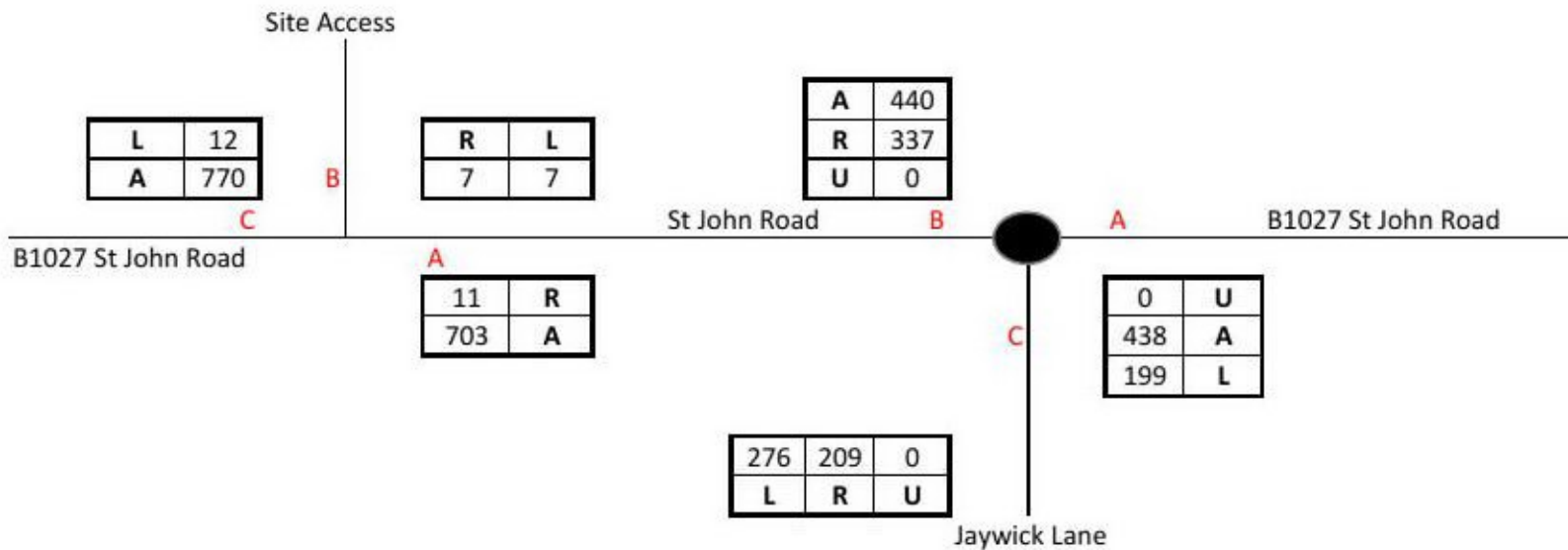
Peak Period: AM

Site/St John's Rd

x	A	B	C
A	/	11	703
B	7	/	7
C	770	12	/

St John/Jaywick Ln roundabout

x	A	B	C
A	0	438	199
B	440	0	337
C	209	276	0





Base (2023) + Garden Centre

All Vehicle movement

Figure Title: Base (2023) + Garden Centre

Peak Period: PM

Site/St John's Rd

x	A	B	C
A	/	2	633
B	6	/	8
C	775	2	/

St John/Jaywick Ln roundabout

x	A	B	C
A	0	362	217
B	480	0	301
C	199	254	0

