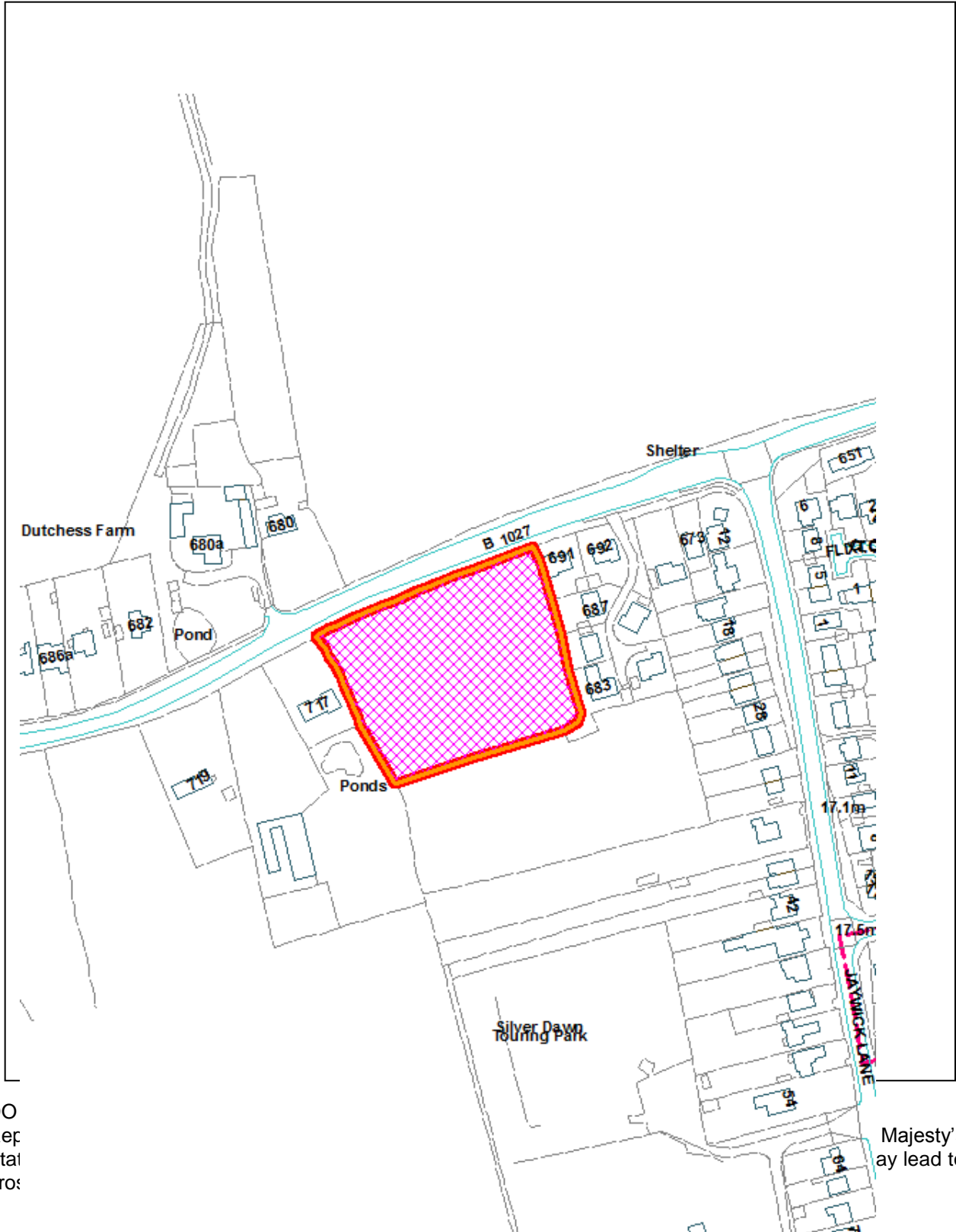


PLANNING COMMITTEE

17th November 2015

REPORT OF THE HEAD OF PLANNING

A.4 PLANNING APPLICATIONS - 15/00899/FUL - LAND BETWEEN 691 AND 717 ST JOHNS ROAD, CLACTON ON SEA, CO16 8BJ



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Application:	15/00899/FUL	Town / Parish: Clacton Non Parished
Applicant:	R Burfoot Construction Ltd	
Address:	Land Between 691 and 717 St Johns Road Clacton On Sea CO16 8BJ	
Development:	Erection of 14 dwellings with associated garages.	

1. **Executive Summary**

- 1.1 The application site lies outside but immediately adjacent to the defined settlement development boundaries as set out in the Tendring District Local Plan (2007) and inside the defined settlement boundary of Clacton-on- Sea as identified in the Policies Map of the Tendring District Local Plan: Proposed Submission Draft (2012). The 2014 Focused Changes does not propose any alteration to this.
- 1.2 The Tendring District Local Plan Proposed Submission Draft 2012 is not adopted and so it can only be given limited weight. The site lies outside any defined Settlement Development Boundary in the Adopted Local Plan and the proposal is contrary to local planning policy.
- 1.3 However, the National Planning Policy Framework says that policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. It requires applications for housing to be considered in the context of the presumption in favour of sustainable development.
- 1.4 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers considered that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF and as a result the proposed development cannot be refused solely on the basis that a site is outside the development boundary.
- 1.5 Paragraph 14 of the NPPF sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 1.6 The assessment of the impact of the current proposal shows that the scheme would contribute economically to the area, would be in close proximity to local transport services and shopping opportunities and would reflect existing development shape and density.
- 1.7 Officers conclude that the proposed development would satisfy the 3 dimensions of 'sustainable development' whilst also being able to achieve a development that would comply with Policies QL9, QL10 and QL11 of the Tendring District Local Plan (2007) as well as Policy SD9 of the Tendring District Local Plan Proposed Submission Draft (2012).

Recommendation: That the Head of Planning (or equivalent authorised officer) be authorised to grant outline planning permission for the development subject to:-

Within 6 months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act

1990 dealing with the following matters (where required):

- **Open Space Contribution**

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

Conditions:

- Standard time limit
- Development in accordance with plans
- Landscaping condition
- Details of materials
- Hard and soft landscaping
- All hard and soft landscaping implementation
- Landscaping – Five year clause
- Details of boundary treatments
- Details of refuse storage/collection points
- Site lighting strategy
- Details of a surface water management strategy
- No dwellings/premises to be occupied until the surface water drainage strategy is carried out
- Working hours
- The selection and use of machinery to operate on site, and working practices to be adopted
- Waste from development to be recycled or removed from the site
- No materials to be burnt on site.
- Dust mitigation during construction
- Details of estate road, at its bellmouth junction with St Johns Road
- No unbound materials
- Closure of existing access or any part of an access rendered redundant or unnecessary
- Details of all carriageways
- Details of all off street car parking
- Details of vehicular turning facility for service and delivery vehicles
- Construction Method Statement with details for:
 - the parking of vehicles of site operatives and visitors
 - loading and unloading of plant and materials
 - storage of plant and materials used in constructing the development
 - wheel and under body washing facilities
- Details of the construction and future maintenance of the necessary bridging or piping of the drainage ditch/watercourse
- Detailed surface water drainage strategy
- Flood management during construction phase
- Maintenance for drainage strategy

c) That the Head of Planning (or the equivalent authorised officer) be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 months, as the requirements necessary to make the development acceptable in planning terms had not been secured through S106 planning obligation, contrary to saved policies HG4 and COM6 of the Tendring District Local Plan (2007) and draft policies PEO10 and PEO22 of the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014).

2. Planning Policy

National Policy

National Planning Policy Framework

National Planning Practice Guidance

Local Plan Policy

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL3 Minimising and Managing Flood Risk

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

HG1 Housing Provision

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

COM6 Provision of Recreational Open Space for New Residential Development

COM26 Contributions to Education Provision

EN1 Landscape Character

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Tendring District Local Plan: Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014)

SD1 Presumption in Favour of Sustainable Development

SD2 Urban Settlements

SD5 Managing Growth

SD7 Securing Facilities and Infrastructure

SD8 Transport and Accessibility

SD9 Design of New Development

PEO1 Housing Supply

PEO3 Housing Density

PEO4 Standards for New Housing

PEO5 Housing Layout in Tending

PEO10 Council Housing

PEO22 Green Infrastructure in New Residential Development

PLA1 Development and Flood Risk

Other Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

3. Relevant Planning History

15/00899/FUL	Erection of 14 dwellings with associated garages.	Current
99/00190/OUT	Residential dwelling	Refused

4. Consultations

Environmental Health

No objection subject to conditions dealing with:

- Working hours
- The selection and use of machinery to operate on site, and working practices to be adopted
- Request extended work hours in writing
- Waste from development to be recycled or removed from the site
- No materials to be burned on site.
- Dust mitigation during construction

Anglian Water Services

Have indicated that there are no assets owned by Anglian Water within the development site boundary. In addition it is stated that there is sufficient capacity within both the waste water and foul sewerage networks to accommodate the proposed development. With regard to surface water disposal it was stated that the submitted surface water strategy/flood risk assessment is not relevant to Anglian Water.

ECC Highways Dept

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

dealing with:

- Details of estate road, at its bellmouth junction with St Johns Road
- No unbound materials
- Closure of existing access or any part of an access rendered redundant or unnecessary
- Details of all carriageways
- Details of all off street car parking
- Details of vehicular turning facility for service and delivery vehicles
- Construction Method Statement with details for:
 - the parking of vehicles of site operatives and visitors
 - loading and unloading of plant and materials
 - storage of plant and materials used in constructing the development
 - wheel and under body washing facilities
- Details of the construction and future maintenance of the necessary bridging or piping of the drainage ditch/watercourse

ECC Schools Service
ECC SuDS Consultee

No comments received

Object to the granting of planning permission based on the following:

- In the absence of a drainage strategy, we object to this application and recommend refusal of planning permission until a satisfactory drainage strategy has been submitted. Reason - Without an appropriate drainage strategy we cannot assess whether the site will incorporate appropriate sustainable drainage systems, as required by the Ministerial Statement on 18th December which relates to all major developments, such as this application. The drainage strategy should discuss the design parameters as well as demonstrate that SuDS can be incorporated within the development boundary.

Principal Tree &
Landscape Officer

The site is affected by Tree Preservation Order TPO/15/09 that gives formal legal protection to five Oak trees. Four situated on the northern boundary of the application site adjacent to the highway and another is on the southern boundary.

In order to show how the protected trees will be retained and protected for the duration of the construction phase of the development the applicant has provided a Tree Survey and Report that is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction - Recommendations.

The site layout makes provision for the retention and physical protection of all of the protected Oaks.

The development proposal could be implemented without causing harm to the protected Oaks if the tree protection measures set out in the arboricultural report are adhered to.

Should consent be granted then a soft landscaping condition should be attached to secure details of new planting.

TDC Housing
Consultation

No objection with a requirement for 3 No. 3 bedroom dwellings to be provided on site.

TDC Open Space Consultation

There is currently a deficit of 41.08 hectares of play in the Clacton/Holland area. Any additional development in Clacton will increase demand on already stretched facilities.

The nearest play area to the proposed development is located at Bockings Elm.

The play area is classified as a Local Equipped Area for Play.

Due to the proximity to the site it is highly likely that the biggest impact would be felt at this play area. Without the provision of additional play areas it is very likely that a largest impact would be felt at this play area. To account for the proposed development and to prevent the current deficit from increasing further, additional play opportunities would need to be provided.

Due to the significant lack of play facilities in the area it is felt that a contribution, in line with the schedule set out in PE022, towards play is justified and relevant to the planning application. However, Clacton is well provided for in terms of open space and we do not consider that a contribution towards additional formal open space is necessary or relevant to this application.

5. Representations

Two letters of objections raising the following matters were received:

- Change of use of land
- Overdevelopment
- Building to front of established building line
- Highway safety
- Wildlife
- Loss of light

6. Assessment

Site and Surroundings

- 6.1 The application site is located within the defined settlement boundary of Clacton-on-Sea as identified in the Policies Map of the Tendring District Local Plan: Proposed Submission Draft (2012). The site measures about 0.82 hectares. There is currently a vehicular access at the western end of the road frontage.
- 6.2 At present the site is used as a paddock for the grazing of horses. As a result it comprises close cropped grassland. The road frontage as well as the western and southern boundaries are screened with a mix of mature hedgerow and mature trees. The eastern boundary is defined by close boarded fencing to the gardens of the residential properties to the east of the site.
- 6.3 To the east is a small development of detached houses with access provided via a private drive. Beyond, lies the rear gardens of properties fronting Jaywick Lane. The properties in these areas mainly consist of single, two storey and chalet style dwellings.
- 6.4 To the west is a detached bungalow, No. 717 5t John's Road. The land to the south is an open field in separate ownership.

Proposed Development

- 6.5 The site is located adjacent to the established pattern of development for Clacton-on-Sea which contains a mixture of detached houses and bungalows of varying design. Referring to the existing context the applicants have submitted a scheme which contains a variety of dwelling types and sizes. The scheme can be broken down as follows:
- 11 No. 3 bedroom bungalows and
 - 3 No. two store 4 bedroom detached dwellings.
- 6.6 The proposal will utilise single access point which has been provided direct on to St John's Road. This further serves to ensure that the existing tree and hedgerow screen across the road frontage was retained.
- 6.7 The dwellings facing St John's Road will be set back about 7m from the road which will allow a soft landscaping buffer to be created to the front of the proposed dwellings. These dwellings will be accessed via two private drives running parallel to the road.
- 6.8 The proposed properties will each have gardens in excess of the Council's minimum standards together with at least a garage and parking space per property. It is proposed to construct the dwellings from a mixed pallet of brick and render with concrete roof tiles.
- 6.9 A number of single storey dwellings have also been included within the scheme and these have been located so as to avoid any conflict with those existing properties to the east and west.
- 6.10 The density of the proposed scheme will be 17 dwellings per hectare.

Suitability of the site for housing

- 6.11 The application site lies outside but immediately adjacent to the defined settlement development boundaries as set out in the Tendring District Local Plan (2007) but inside the defined settlement boundary of Clacton-on-Sea as identified in the Policies Map of the Tendring District Local Plan: Proposed Submission Draft (2012). The 2014 Focussed Changes does not propose any alteration to this.
- 6.12 Given that the Tendring District Local Plan Proposed Submission Draft 2012 is not an adopted plan and maybe subject to change it can only be given limited weight. The site lies outside any defined Settlement Development Boundary in the saved Local Plan and is contrary to local planning policy.
- 6.13 Clacton is identified as a town within Policy QL1 of the Tendring District Local Plan (2007) and on this basis it is considered that a certain amount of growth can be supported. Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.
- 6.14 Chapter 6 of the National Planning Policy Framework (NPPF) has as an objective the delivery of a wide choice of high quality homes. In order to facilitate this objective paragraph 49 of the NPPF sets out that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 6.15 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result the Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF.

- 6.16 This view has also been supported by the Planning Inspectorate in a number of recent appeal decisions.
- 6.17 Members should note that whilst the Council has published the Tendring District Local Plan Proposed Submission Draft (2012), the document is yet to be submitted to the Secretary of State and formal adoption cannot take place before it has been examined, consulted on and found to be sound and until that time the relevant emerging policies may possibly be subject to change. When considered in relation to paragraph 216 of the Framework they may be afforded only limited weight.
- 6.18 Based on the above it is considered that, in the absence of up-to-date policies, development proposals cannot be refused solely on the basis that a site is outside the development boundary. Paragraph 14 of the NPPF supports this view when it sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 6.19 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight. As a result the current scheme falls to be considered against the 3 dimensions of 'sustainable development',
- economic,
 - social and
 - environmental roles.
- 6.20 The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary.
- 6.21 Officers consider that the proposal would contribute economically to the area and so meets the economic arm of sustainable development. The benefits would arise as part of the construction process while also attracting new families with spending power into the area.
- 6.22 In terms of the social role, it is considered that services are available within walking distance of the site while the site is also in close proximity to bus stops on St Johns Road and Jaywick Lane with access to Clacton town centre giving future occupiers access to local community facilities as well as access to employment opportunities through public transport links.
- 6.23 It is acknowledged that, in terms of settlement shape and form, development in this location is unlikely to have a significantly detrimental impact (subject to consideration against other Local Plan policies) as the site immediately adjoins the Settlement Development Boundary (SDB) in the 2007 Adopted and 2012 Draft Local Plan with a number of residential dwellings to the east of the site.
- 6.24 As a result development at the scale proposed would effectively mirror existing development to the east along St John's Road. On this basis officers consider that a more pragmatic approach is justified in this instance.

Character of the area

- 6.25 The site is adjacent to the established pattern of development for Clacton-on-Sea which contains a mixture of detached houses and bungalows of varying design.
- 6.26 With regard to local landscape character the application site consists of an area of paddock land that has become overgrown over time. The site boundary with the highway is marked by an established hedgerow. This hedgerow currently provides a good level of screening.

The applicants have indicated that, apart from a small section required for the new access, this hedgerow would be retained whilst a condition will also be attached requiring a soft landscaping scheme to be submitted securing additional planting to strengthen its screening value.

- 6.27 Officers are of the view that given the current use of the land as well as the level of screening and landscaping to be retained as part of the current proposal, there would be only a limited impact on the landscape character of the area and would not be to a degree that would outweigh the benefits of providing much needed new residential properties to address the Council's current shortfall.
- 6.28 Policies QL9, QL10 and QL11 of the Saved Plan aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties.
- 6.29 Policy SD9 of the Draft Plan, whilst of limited weight carries forward the sentiments of these saved policies stating that all new development must make a positive contribution to the quality of the local environment and protect or enhance local character.
- 6.30 The proposed scheme contains a mixture of dwellings in terms of scale and design as well as numbers of bedrooms. In addition the scheme is of a density which reflects the existing development to the east and allows for adequate separation between properties.
- 6.31 Officers are also of the view that the proposed density of 17 dwellings per hectare does not represent overdevelopment of the site. It results in a scheme which provides a natural progression from the high density urban development pattern within Clacton to the open countryside further to the west of the site.
- 6.32 It is also noted that the proposed development has been designed in a manner which would ensure the retention of the tree and hedgerow screen across the road frontage. As a result it is considered that the proposed development would retain the edge of settlement character and represent natural transition to the rural area beyond.
- 6.33 In terms of finishes the applicants have indicated that the scheme would comprise of a mixture of brick and rendered dwellings. Whilst this would be in keeping with finishes used elsewhere in the vicinity a condition will be attached to any approval requiring the submission of material samples in order to ensure a high quality development in this location.
- 6.34 Based on the above it is concluded that the proposed development can be achieved in accordance with the aims and objectives of stated national and local policies.

Residential Amenity

- 6.35 The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. Policy SD9 of the Draft Plan carries forward the sentiments of these saved policies and states that 'the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'.
- 6.36 An objection has been received from an immediate neighbour to the east of the site raising concern with regard to potential loss of light to their property. However, since this objection the property at Plot 1 has been reduced from a two storey dwelling to a single storey

bungalow. Given the overall scale and height of this property as well as the separation distances achieved there would be limited loss of light that would not materially detract from the amenities of the immediate neighbouring occupiers.

- 6.37 The separation distances, siting, height, scale and layout of the proposed dwellings produces a scheme that can be completed without resulting in any adverse impacts on the residential amenities of neighbouring properties as a result of loss of light, loss of privacy or overbearing development. The amenities of the occupiers of the development would also be acceptable.
- 6.38 The scheme is also of a density which ensures that each of the proposed dwellings is provided with a garden area that in all cases exceeds the Council's garden size standards as set out in the adopted local plan.
- 6.39 Based on the above officers conclude that the proposed development can be completed in a manner that would be compliant with national and local policies as they relate to residential amenity.

Highway Safety

- 6.40 Policy QL10 of the Saved Plan states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. This requirement is also carried forward to Policy SD9 of the Draft Plan.
- 6.41 The proposal will utilise a single access point on to St John's Road. The dwellings facing St John's Road will be set back about 7m from the road which will allow a soft landscaping buffer to be created to the front of the proposed dwellings. These dwellings will be accessed via two private drives running parallel to the road. Officers consider that this will aid the free movement of traffic within the development.
- 6.42 As the local highways authority Essex County Council Highways were consulted on the proposed development and no objection was raised subject to a number of controlling conditions.
- 6.43 The proposed dwellings would each be served by either an integral or detached garage with additional off-street parking available to the front of each property. These arrangements would result in a development which makes adequate provision for off-street parking in accordance with the Council's parking standards.

Surface Water Drainage

- 6.44 Policy EN13 of the Saved Local Plan and Policy PLA3 Draft Local Plan requires that all new development, excluding householder development, to incorporate Sustainable Drainage Systems (SuDS) as a means of reducing flood risk, improving water quality, enhancing the green infrastructure network and providing amenity benefit. Justification must be given for not using SuDS.
- 6.45 In this regard officers consulted with Essex County Council Flood and Water Management. Responding to this consultation they stated that the submitted documents do not provide sufficient details on the flood risk or the surface water drainage strategy to be implemented on the development and recommended refusal on this basis.
- 6.46 Whilst the above comments are noted, it is the case that the site falls below 1 hectare size threshold and therefore in line with national policy does not require a Flood Risk Assessment. Further, information on surface water drainage is required and this can be secured by condition.

- 6.47 It is further noted that Anglian Water did not raise an objection to the proposed scheme as there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary. With regard to wastewater treatment and foul sewerage it is indicated that the existing systems have sufficient capacity to accommodate the proposed development.

Tree Preservation Orders

- 6.48 The site is affected by Tree Preservation Order TPO/15/09 that gives formal legal protection to five Oak trees. Four are situated on the northern boundary of the application site adjacent to the highway and another is on the southern boundary.
- 6.49 In order to show how the protected trees will be retained and protected for the duration of the construction phase of the development the applicant has provided a Tree Survey and Report that has been carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction - Recommendations.
- 6.50 The site layout makes provision for the retention and physical protection of all of the protected Oaks. The proposed development can be implemented without causing harm to the protected Oaks if the tree protection measures set out in the arboricultural report are adhered to.

S106 Agreement

- 6.51 If the Council was mindful to approve the application, it is considered that a S106 agreement is required to cover the following:

Open Space Contribution

Policy COM6 of the Saved Plan states that for residential development below 1.5 hectares in size, where existing open space facilities are inadequate to meet the projected needs of the future occupiers of the development, a financial contribution shall be made to the provision of new or improved off-site facilities in scale and kind to meet these needs.

There is currently a deficit of 41.08 hectares of play in the Clacton/Holland area.

The nearest play area to the proposed development is located at Bockings Elm. The play area is classified as a Local Equipped Area for Play. Due to the proximity to the site it is highly likely that the biggest impact would be felt at this play area.

Due to the significant lack of play facilities in the area it is felt that a contribution towards play is justified and relevant to the planning application.

Clacton is however well provided for in terms of open space and it is not considered that a contribution towards additional formal open space is necessary or relevant to this application.

Affordable Housing

- 6.52 Saved Policy HG4 requires up to 40% of dwellings to be affordable housing on sites of 15 or more dwellings in urban settlements (with a population of 3,000 or more) and on sites of 5 or more dwellings in rural settlements (with a population less than 3,000). The National Planning Policy Framework requires Councils to consider economic viability when it applies its policies and the Council's own 2013 viability evidence in support of the Local Plan demonstrates that 40% affordable housing is unlikely to be viable in Tendring and that between 10% and 25% (as contained within emerging Policy PEO10) is more realistic. The

thresholds under Saved Policy HG4 will therefore be applied but the percentage will be between 10% and 25% as detailed under emerging Policy PEO10.

- 6.53 The Council's Housing Team indicated that Clacton is the area of highest demand on the housing register and there are 87 households on the housing register seeking a 3 bedroom property. There is a chronic shortage of 3 bedroom bungalows in the affordable rented stock in the district and there are currently 11 households on the housing register with a critical or high need for this type of property. Notwithstanding the above it is noted that the site falls below the policy threshold of 15 dwellings and as a result no contribution would be required toward affordable housing in this instance.

7. Conclusion

- 7.1 Clacton is considered to be a socially sustainable location for new dwellings and the proposal would bring some economic benefits and in addition in terms of settlement shape and form, development in this location is unlikely to have a significantly detrimental impact on the character of the area as the site immediately adjoins the Settlement Development Boundary (SDB) in the 2007 Adopted Local Plan while being inside the 2012 Draft Local Plan with a number of residential dwellings to the east of the site. Accordingly it is considered that the proposal complies with the definition of sustainable development as set out in paragraph 7 of the NPPF.
- 7.2 As a result development at the scale proposed would effectively mirror existing development to the east along St John's Road. Members are advised that on this basis a more pragmatic approach is justified in this instance as no adverse impacts of doing so have been identified that would significantly and demonstrably outweigh the benefits of the current scheme.

8. Background Papers

None