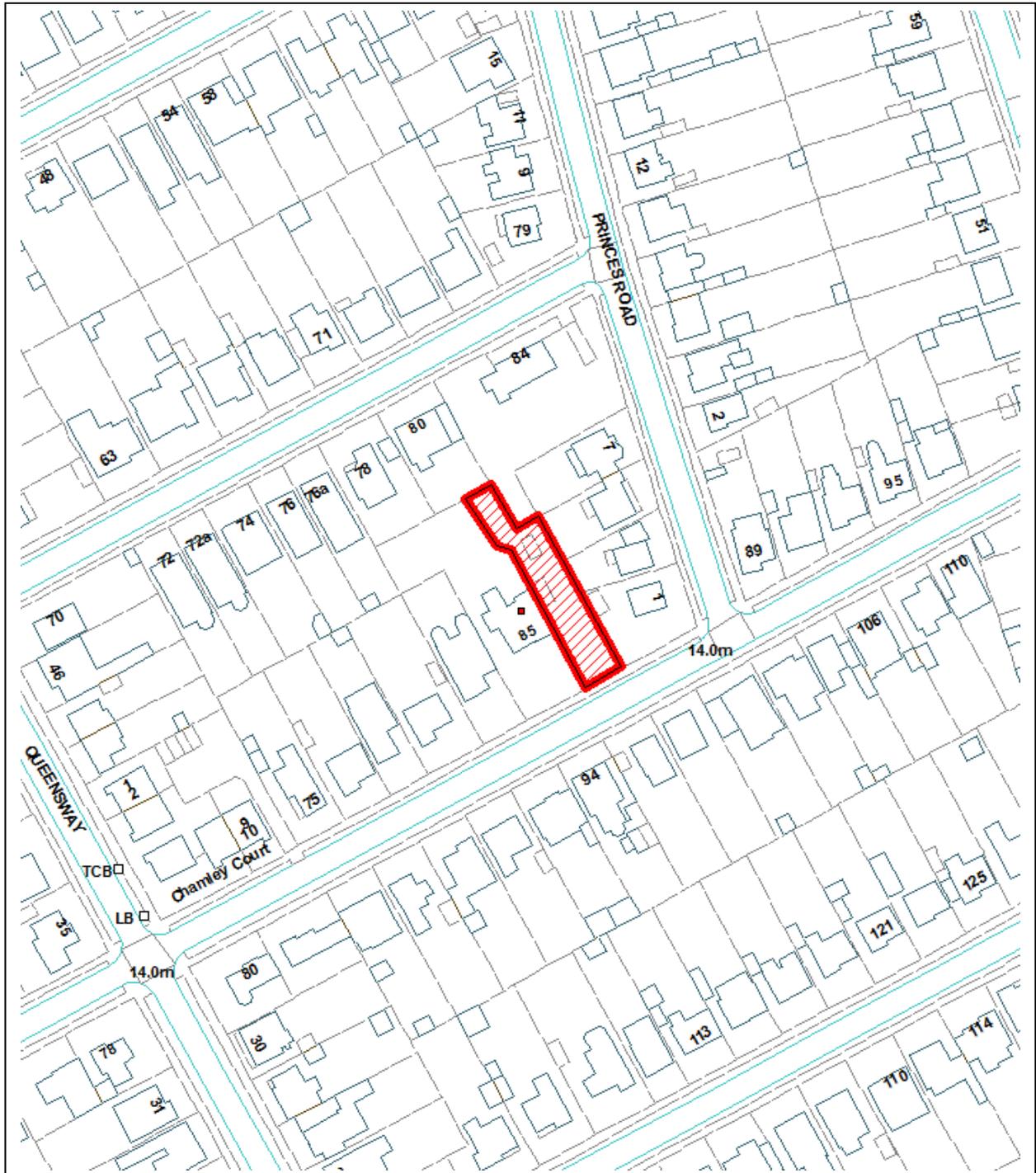


PLANNING COMMITTEE

11 JUNE 2019

REPORT OF THE HEAD OF PLANNING

**A.5 PLANNING APPLICATION – 18/02072/FUL – 85 SALISBURY ROAD, HOLLAND ON SEA, CO15 5LS**



DO NOT SCALE

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**Application:** 18/02072/FUL

**Town / Parish:** Clacton Non Parished

**Applicant:** Mr John Coley

**Address:** 85 Salisbury Road, Holland On Sea, CO15 5LS

**Development:** Proposed 3 bedroom bungalow to land to the side.

## 1. **Executive Summary**

- 1.1 The application has been referred to planning committee by Councillor Winfield as the proposal is considered contrary to policy HG9, HG14, TR1A and the neighbouring mature tree roots are in danger of damage during construction.
- 1.2 The application seeks planning permission for the erection of a 3 bed bungalow to the land to the side of 85 Salisbury Road, Holland on Sea.
- 1.3 The site lies within the Settlement Boundary for Clacton on Sea, as established in the Tendring District Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 1.4 The scale, layout and appearance of the dwelling are acceptable and will not result in any material harm to the character of the area. The dwelling is served by ample private amenity space and due to the hipped roof, single storey nature of the dwelling, further softened by existing boundary vegetation and fencing, the proposal will not cause impact upon the neighbouring amenities. Further, the proposal will not represent a highway safety risk and will not be harmful to the local landscape.
- 1.5 A legal agreement has been completed to account for contributions towards open space and Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

### **Recommendation: Approval**

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

Subject to the conditions stated in section 8.2.

A legal agreement has been completed to account for contributions towards open space and Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

## 2. **Planning Policy**

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

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG9 Private Amenity Space

HG14 Side Isolation

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN11B Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites

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

LP1 Housing Supply

LP2 Housing Choice

LP4 Housing Layout

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

PPL4 Biodiversity and Geodiversity

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

## **Status of the Local Plan**

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

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

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

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

### **3. Relevant Planning History**

TRE/99/14	Oak and Birch - 30% crown reduction	Current	11.03.1999
06/01911/FUL	Extension to dwelling.	Approved	23.01.2007
07/01082/FUL	Conservatory extension.	Approved	20.08.2007

18/00188/TPO	1 No. Beech - front garden - crown reduce and crown lift to 14 ft. 1 No. Silver Birch- fell.	Approved	06.03.2018
18/01631/LUPROP	Proposed attached garage.	Lawful Use Certificate Granted	21.11.2018
18/02072/FUL	Proposed 3 bedroom bungalow to land to the side.	Current	

#### 4. Consultations

##### **ECC Highways Dept**

The application has been fully considered by the Highway Authority.

The site is located off Salisbury Road which has existing 30-mph speed limit. The plot retains adequate room and provision for off street parking and turning, for the existing and proposed vehicular access therefore:

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

1. Prior to occupation of the dwelling the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 3 metres, shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/ verge  
Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1
2. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.  
Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1
3. There shall be no discharge of surface water onto the Highway.  
Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1
4. All single garages should have a minimum internal measurement of 7m x 3m  
Reason: To encourage the use of garages for their intended purpose and to discourage on-

street parking, in the interests of highway safety and in accordance with Policy DM8

5. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1

6. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

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

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

8. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the carriageway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the carriageway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

**Informative 1:**

Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence. Therefore the applicant must ensure that no mud or detritus is taken onto the highway, such

measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway

Informative 2:

Any work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

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

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

## 5. **Representations**

- 2.1 Clacton is non parished
- 2.2 11 letters of objection have been received raising the following concerns:
  - 1. Dwelling is too close to the boundary
  - 2. Over-development
  - 3. It will be overbearing
  - 4. Concerns with Tree Preservation Order
  - 5. Dwelling will extend along the boundary of garden
  - 6. Loss of privacy
  - 7. Loss of daylight, sunlight and overshadowing
- 2.3 The material planning considerations raised above are addressed in the main report below.

## 6. **Assessment**

### Site Context

- 2.4 The application site is located to the north of Salisbury Road and is a parcel of land which currently forms part of the side garden to number 85 Salisbury Road, Holland on Sea. The site is situated in-between number 85 Salisbury Road and abuts the boundaries of number 1, 3, 5 and 7 Princes Road. The surrounding area comprises of a mixture of one storey and two storey residential dwellings.
- 2.5 The site lies within the Settlement Boundary for Clacton on Sea, as established in the Tendring District Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

- 2.6 It is noted that a 1.8 metre close boarded fence is proposed to the boundary shared with Number 85 Salisbury Road and to the rear of numbers 1,3,5 and 7 Princes Road. This falls within permitted development tolerances allowed under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 2, Minor operations, Class A which states that the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure is permitted provided the height does not exceed 2 metres above ground level.

#### Proposal

- 2.7 The application seeks full planning permission for the erection of a 3 bedroom bungalow to the land to the side of 85 Salisbury Road.
- 2.8 The dwelling has been designed as a single storey dwelling with two parking spaces to the front of the application site.
- 2.9 External materials comprise of brickwork, interlocking tiles and UPVC windows to match the materials used within Number 85 Salisbury Road.

#### Principle of Development

- 2.10 The application site is located within the defined Settlement Development Boundary for Clacton on Sea, as defined by the Saved Tendring District Local Plan 2007 and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 2.11 Policy SPL2 of the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft states that there is a general presumption in favour of new development within defined development boundaries of towns and villages, subject to detailed consideration against other relevant Local Plan policies. The principle for residential development is therefore acceptable subject to the detailed consideration below.

#### Design, Layout and Appearance

- 2.12 Paragraphs 127 and 170 of the National Planning Policy Framework 2019 states that developments should function well and add to the overall quality of the area, be visually attractive as a result of good architecture, layout and appropriate and effective landscaping, be sympathetic to local character and history, including the surrounding built environment and landscape setting and planning policies and decisions should contribute to and enhance the natural and local environment by, inter alia, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.
- 2.13 The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Emerging Plan.
- 2.14 The submitted plans show that the proposed dwelling will be detached and accessed via Salisbury Road. The proposal is single storey with a hipped roof with the design of the dwelling being in keeping with the character of the area.
- 2.15 The proposal will be sited forward of number 85 Salisbury Road. However, due to the staggered street scene of Salisbury Road as well as the single storey nature of the proposal, it is considered that the dwelling will not cause any impact upon Salisbury Road.

- 2.16 Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of three or more bedrooms should have a minimum of 100 square metres. The submitted plans demonstrate that the existing and proposed dwelling can both demonstrate that this can be achieved comfortably.

#### Impact on Residential Amenity

- 2.17 The NPPF, in paragraph 127 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 Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).
- 2.18 Policy HG14 of the Tendring District Local Plan (2007) states extensions to dwellings over 4m in height should retain appropriate open space between dwellings and the side boundaries, with a minimum distance of 1m to ensure that new development is appropriate in its setting, does not create a cramped appearance and to safeguard the amenities and aspect of adjoining residents.
- 2.19 The proposal demonstrates a 1 metre gap between the dwelling and the rear gardens of number 1, 3 and 5 Princes Road. The hipped roof will slope away from the neighbouring amenities and the three windows proposed to the side elevation will be screened by the proposed 1.8 close boarded fence and therefore this will reduce any impact of overlooking onto neighbouring amenities. In terms of the loss of light to neighbouring amenities, the proposal is located west of the neighbouring dwellings and as the sun rises in the east and sets in the west, the dwelling may cause some shadowing in the late evening. However, due to the separation distance as well as the single storey nature of the proposal, it is considered that the dwelling will not cause any significant impact upon neighbouring amenities.
- 2.20 The proposal will maintain 1 metre to the neighbouring dwelling to the west 85 Salisbury Road. The roof pitch will slope away from the neighbouring amenities and a 1.88 metre close boarded fence is proposed along the boundary to help screen the proposal. It is therefore considered that the dwelling will not cause any significant impact upon neighbouring amenities.

#### Highway Safety/Parking

- 2.21 The Council's adopted parking standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. There is sufficient parking to the front of the host dwelling to meet the requirements of Essex County Council Parking Standards of 5.5 metres by 2.9 metres.
- 2.22 The Highway Authority have raised no objection to the development subject to conditions and informatives. The suggested conditions comprise; access width, no unbound materials, no discharge of surface water onto the highway, garage measurements, boundary planting, cycle storage, travel information pack and storage of building materials. The storage of building materials will be covered by a condition requiring the submission of a Construction Method Statement. The requested travel pack condition has not been imposed as this is usually imposed for major developments. The other suggested conditions will be added.

#### Trees and Landscaping

- 2.23 Policy EN1 of the adopted Local Plan and Policy PPL3 in the emerging Local Plan seek to protect and, wherever possible, enhance the quality of the district's landscape; requiring developments to conserve natural and man-made features that contribute toward local distinctiveness and, where necessary, requiring suitable measures for landscape conservation and enhancement.
- 2.24 The application site comprises of a Tree Preservation Order (TPO) reference TPO/93/26. The TPO affords protection to a large Beech tree situated to the front of the application site. A Tree Survey and Report was requested and provided by the applicant. The document demonstrates that the tree is situated to the south of the proposed dwelling and it is likely to cause a significant obstruction to daylight and direct sunlight reaching the windows at the front of the property. In this case it is considered that the incursion into the Root Protection Area of the tree and the consequent harm, along with the impact of the tree on light reaching the proposed dwelling means the applicant has not demonstrated that a satisfactory juxtaposition between the dwelling and the tree has been achieved. As a result the applicant amended the plans for the dwelling to be located outside of the Root Protection Area therefore the development will not result in an incursion into the Root Protection Area of the Beech and the development will not cause harm to the protected tree.

#### Legal Obligations

- 2.25 Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".
- 2.26 There is currently a deficit of -17.68 hectares of play and formal open space in Holland/Clacton on Sea. Any additional development in Holland/Clacton will increase demand on play facilities further. The nearest play areas to the application site is located at Hereford Road, Holland on Sea The area is designated as a Local Equipped Area for Play and provides equipment for children of all ages. This play area already covers a large part of Holland on Sea and it is felt that any further development in this area will impact on the current facilities. Due to the overall deficit within Holland, the contribution will be used towards improving the safety surface at Hereford Road.
- 2.27 A completed unilateral undertaking has been provided to secure this legal obligation and to ensure compliance with saved policy COM6.

#### Habitat Regulations Assessment

- 2.28 Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.
- 2.29 Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be a proportionate financial contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites.

2.30 A completed unilateral undertaking has been provided to secure this legal obligation and to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

**7. Conclusion**

2.31 The proposed development is considered to comply with policy contained within the NPPF, the adopted Local Plan and emerging Local Plan policy contained within the Publication Draft document and is therefore recommended for approval

**8. Recommendation**

2.32 The Planning Committee is recommended to grant planning permission subject to the following conditions and informative's and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

<b>CATEGORY</b>	<b>TERMS</b>
Financial contribution towards RAMS.	£122.30 for the one dwelling proposed
Open Space	Contribution will be used towards the improvement to the safety surface at Hereford Road

2.33 Conditions and Reasons

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. 1813-PL01 C

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

3 Prior to occupation of the dwelling the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 3 metres, shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/ verge

Reason - to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety

4 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason - To avoid displacement of loose material onto the highway in the interests of highway safety

5 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason - To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety

- 6 The development shall be carried out in strict accordance with the Arboricultural Impact Assessment Reference No. TPSarb9610219 Dated 15<sup>th</sup> February 2018 and Appendix 1 Tree Survey and Explanatory notes. contained therein.

Reason - In the interests of safeguarding the protected tree.

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

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

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

- 8 No above ground works shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason - In the interests of visual amenity as insufficient information has been submitted within the application for full consideration of these details.

- 9 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no additions or alterations to the dwelling or its roof, nor shall any buildings, enclosures, swimming or other pool be erected except in accordance with drawings showing the design and siting of such additions and/or building(s) which shall previously have been submitted to and approved, in writing, by the local planning authority.

Reason - In the interests of visual amenity and to protect existing and future resident's privacy.

- 10 There shall be no discharge of surface water onto the Highway.

Reason - To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety

- 11 All single garages should have a minimum internal measurement of 7m x 3m.

Reason - To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety

- 12 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason - To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety

- 13 The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason - To ensure appropriate cycle parking is provided in the interest of highway safety

## 2.34 Informatives

### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

### Legal Agreement Informative - Open Space/Play Space Contribution

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Public Open Space financial contribution in accordance with Policy COM6 of the adopted Tendring District Local Plan (2007) and Policy HP5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

### Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

### Highways Informative

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

Any work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

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

SMO1 ' Essex Highways

Colchester Highways Depot,  
653 The Crescent,  
Colchester.  
CO4 9YQ.

## 9. Additional Considerations

### Public Sector Equality Duty (PSED)

- 2.35 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
  - B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
  - C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 2.36 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 2.37 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 2.38 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

### Human Rights

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

3. **Background Papers**

None.