

PLANNING COMMITTEE

22 October 2019

REPORT OF THE HEAD OF PLANNING

A.3 PLANNING APPLICATION – 19/00610/FUL – LAND AT OAKMEAD ROAD ST OSYTH CO16 8NW



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Application: 19/00610/FUL

Town / Parish: St Osyth Parish Council

Applicant: Mr Parsons

Address: Land at Oakmead Road St Osyth CO16 8NW

Development: Construction of 4 No detached houses with associated accesses.

1. **Executive Summary**

- 1.1 This full application follows outline application 16/01611/OUT approved by the Planning Committee at their meeting on the 29th March 2017 at which time Members requested that any detail application be brought back to the Committee for determination. The application was originally submitted as a reserved matters application but due to the reduction in the number of dwellings from the 5 approved at outline to the 4 now being proposed, the application must be dealt with as a full planning application. Although the application type is different, the application is therefore before Members to satisfy their request at the meeting on the 29th March 2017 to deal with the detailed design of the development.
- 1.2 The principle of residential development for 5 dwellings has been established through the approval of outline application 16/01611/OUT. This application is now considering the development for the erection of 4 detached dwellings.
- 1.3 Outline application 16/01611/OUT was approved by members subject to 15 conditions, including the requirement for the submission of some particulars concurrently with the reserved matters application. These being; an ecological management scheme and mitigation plan (condition 12), a surface water drainage strategy (condition 14) and a foul water drainage strategy (condition 15). Conditions 14 and 15 were added by Members in addition to those recommended by officers. As the application was originally submitted as a reserved matters application, all the information to accord with the conditions imposed on the outline permission accompanies this application.
- 1.4 The application site is situated on the eastern side of Oakmead Road forming part of an open area of lawned land enclosed along the northern and western boundaries by an established hedgerow (removed in part) appearing as part of 262 Point Clear Road. The site is surrounded by existing residential development; to the north-west on Alpha Road, to the west of the site and to the south and east fronting Point Clear Road. To the north and in line with the application site are mobile homes sited at The Orchards Caravan Park.
- 1.5 The scheme has been revised following discussions with Planning Officers and is now considered to be acceptable. The application proposes 4 no. detached, 1.5 storey, 3 bed dwellings all of a similar design with a central gable feature to the front and rear (including a balcony to the rear). The dwellings are to have a rendered finish with slate roof tiles. Plots 2 and 4 include some cladding to the front elevations to add variation to the development within the street scene. The dwellings are to be served by two new accesses and turning areas off Oakmead Road (each serving two plots). The introduction of the new accesses is permissible as part of this application.
- 1.6 The dwellings front Oakmead Road in a linear arrangement, are sited centrally within their individual plots, each served by two parking spaces to their frontage and each served by a rear private garden area of 165 square metres. Landscaping for the development includes the retention of the majority of the existing front boundary hedgerow (two sections removed to allow for accesses), additional planting behind the existing hedgerow and new planting to the site perimeters and individual plot boundaries.

- 1.7 The layout responds appropriately to the character of the area and provides sufficient parking, turning and private amenity space for the dwellings. The scale, appearance and finish of the properties are considered acceptable in this mixed residential character area. The landscaping assimilates the development into the site and its setting, screening and softening the visual impact within Oakmead Road and any wider landscape impact. The provision of two accesses to serve 4 dwellings will not result in any material harm to highway safety.
- 1.8 Sufficient distance is achieved between the development and neighbouring dwellings on the opposite side of the road to safeguard their residential amenities. Spacing between the proposed dwellings, and private gardens are in excess of policy standards and secure a good level of amenity for future occupants. The inward facing windows within the side elevations have been amended following concerns with privacy. The proposed balconies will allow some overlooking between the new dwellings but are somewhat screened by the gable overhang. Nevertheless, prospective buyers will be aware of the detailed design of the properties.
- 1.9 An Ecological Management Scheme has been submitted which includes a time table for implementation detailing the installation of hedgehog friendly fencing, bird boxes and the planting of trees, shrubs and hedgerows prior to the completion of construction and details of how the ecological features are to be managed. Officers are satisfied that the scheme is acceptable and also meets the aims of the condition imposed on the outline permission.
- 1.10 Surface Water will be directed to the north of the site and connection made into the existing ditch within the applicant's land. The water discharging into the ditch will be attenuated with a swale of an appropriate size for this minor scale development. The topography of the site means that the water falls naturally towards the ditch reducing any risk of flooding either on the application site or nearby. A foul water connection to the main sewer is available in Oakmead Road and the proposed houses will connect to this via a gravity connection. Officers are satisfied that the scheme is acceptable and also meets the aims of the conditions imposed on the outline permission.
- 1.11 A legal agreement has been completed to account for a financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and toward enhancements to the existing Point Clear play area at Dumont Avenue.
- 1.12 The principle of residential development is established by the approval of outline application 16/01611/OUT. The application provides a development that is acceptable in terms of design, highways, trees and landscaping, biodiversity, drainage and residential amenity considerations and is recommended for approval.

Recommendation: Approval

Subject to the conditions stated in section 8.2.

A legal agreement has been completed to account for contributions towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and toward enhancements to the existing Point Clear play area at Dumont Avenue.

2. Planning Policy

- 2.1 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

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG6 Dwelling Size and Type

HG9 Private Amenity Space

HG14 Side Isolation

EN1 Landscape Character

EN3 Coastal Protection Belt

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SPL1 Managing Growth

SPL3 Sustainable Design

LP1 Housing Supply

LP4 Housing Layout

PPL2 Coastal Protection Belt

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 2.3 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.
- 2.4 With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.
- 2.5 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

03/00750/FUL	Variation of Condition 02 imposed upon planning permission	Refused	06.06.2003
	02/00105/FUL to allow recreational		

	use of horses owned by the applicant to be ridden by the public.		
10/00233/FUL	Retrospective application for conversion of swimming pool building to 2 bed bungalow.	Refused	05.05.2010
10/00933/FUL	Change of use of swimming pool conversion for residential use.	Refused	26.01.2011
13/00163/FUL	To use annexe as separate holiday accommodation for holidays and to support Charter Fishing business which operates out of Brightlingsea.	Approved	15.04.2013
16/00946/FUL	Extension and change of use to self-contained permanent dwelling.	Approved	22.09.2016
16/01611/OUT	Proposed 5 No. detached dwellings with associated garages and parking.	Approved	30.03.2017

4. Consultations

ECC Highways Dept

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

1. Prior to the first occupation the accesses at their centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 17 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the accesses are first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the accesses and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

2. Prior to first occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

3. Prior to first occupation of the development the vehicular accesses shall be constructed at right angles to the proposed carriageway. The width of the access at its junction with the highway shall not be less than 4.1

metres shall be retained at that width for 6 metres within the site.

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.

4. No unbound materials shall be used in the surface treatment of any proposed vehicular access within 6 metres of the carriageway.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

5. All double garages should have a minimum internal measurement of length 7m x 5.5m.

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.

6. Prior to first occupation of the development vehicle parking shall be provided in accordance with the EPOA Parking Standards as shown in principle in the Proposed Site Plan, drawing no.835/10 constructed ready for use. The vehicle parking area and associated turning area shall be retained in the agreed form at all times.

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.

7. 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.

8. 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 free of charge.

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.

9. 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

10. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway/carriageway (delete as appropriate).

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway/carriageway (delete as appropriate) 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: 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.

Informative 2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 3: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

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

5. Representations

- 5.1 St. Osyth Parish Council strongly object to this application. The objections raised can be summarised and addressed as follows;

- Differs significantly from the original proposal 16/01611/OUT.
16/01611/OUT was approved with all matters reserved and any plans previously considered were indicative only. The principle of residential development was approved. This application now seeks full planning permission.
- Creation of 2 accesses on narrow lane with no footpath harmful to pedestrian and highway safety.
This is addressed in the highways considerations section of the main report below.
- Removal of hedgerow.
The clearance of any vegetation is controlled by condition.
- Insufficient visibility from new accesses.
The block plan shows that the access arrangements and visibility meet highway safety requirements.
- No right of access onto private lane.
- Future occupants will be responsible for private lane maintenance.
Rights of access, land ownership and maintenance of the highway are not material planning considerations and are legal matters between relevant parties.
- The current application now includes the provision of a surface water surge pond, which was absent from the original application. Whilst this may be seen as an attempt by the applicant to address drainage and surface water flooding.
This is a requirement of the outline application under condition 14 and was submitted with the application accordingly. This is addressed in further detail within the main assessment below.
- Essex County Council's SUDs Team should be consulted regarding the proposed surge pond and drainage from the development, which appears insufficient due to the change in levels.
The Lead Flood Authority are not required to comment on small scale developments such as this. Drainage is dealt with by Building Regulations.
- Who will be responsible for the maintenance of the ditch?
The ditch is within the applicant's ownership.

5.2 31 letters of objection have been received in response to the original and amended proposal including a petition of 34 signatories and objections from Alpha Road Residents Association. The objections raised can be summarised as follows (officer response in bold text);

- Accesses not as approved.
- Will cause congestion and upset on this narrow, one car width lane.
- Harmful to highway safety and pedestrian safety.
- Poor visibility / blind points.
Access and highway safety is covered in the main assessment below.
- Private road maintained by residents.
- Applicant has no right of access to Oakmead Road and Alpha Road.
Land ownership and rights of access are not a material planning consideration.
- Overlooking and loss of privacy
This is addressed in the main assessment below.
- No surface water drainage.

Drainage information has been provided in accordance with condition 14 of the outline consent and is considered acceptable as addressed in the main assessment below.

- Loss of hedgerow and harm to wildlife.
Timing of clearance is controlled by condition 10 of the outline consent. The development results in a net gain in biodiversity features as covered by the Ecological Management Scheme.
- Noise, disturbance and congestion from construction traffic and works.
The submission of a Construction Method Statement will be secured by condition.
- No details of refuse collection.
This is a requirement of condition 8 of the outline consent and will be subject of a discharge of condition application.
- Design of dwellings out of keeping.
Design and impact is addressed in the main assessment below.

6. Assessment

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Principle of Development;
- Layout, Scale and Appearance;
- Coastal Protection Belt;
- Access and Parking;
- Residential Amenities;
- Surface Water Drainage and Foul Water Drainage;
- Landscaping and Biodiversity;
- Legal Obligations - Recreational Impact Mitigation; and,
- Legal Obligations - Open Space/Play Space Contribution.

Site Context

- 6.2 The application site is situated on the eastern side of Oakmead Road forming part of an open area of lawned land enclosed along the northern and western boundaries by an established hedgerow (removed in part) appearing as part of 262 Point Clear Road. The site is surrounded by existing residential development; to the north-west on Alpha Road, to the west of the site and to the south and east fronting Point Clear Road. To the north and in line with the application site are mobile homes sited at The Orchards Caravan Park.
- 6.3 The site lies to the north of the existing access and driveway leading to 262 Point Clear Road, this and the remainder of the adjoining lawned area fall within the ownership of the applicant and are therefore shown outlined in blue on the submitted plans.
- 6.4 The site is outside the Flood Zone but is within the Coastal Protection Belt.

Proposal

- 6.5 This application seeks full planning permission for the erection of 4 no. detached, 1.5 storey, 3 bed dwellings all of a similar design with a central gable feature to the front and rear

(including a balcony to the rear). The dwellings are to have a rendered finish with slate roof tiles. Plots 2 and 4 include some cladding to the front elevation.

- 6.6 The principle of residential development for 5 dwellings has been established through the approval of outline application 16/01611/OUT. The application was originally submitted as a reserved matters application but due to the reduction in the number of dwellings from the 5 approved at outline to the 4 now being proposed, the application must be dealt with as a full planning application.
- 6.7 Outline application 16/01611/OUT was approved by members subject to 15 conditions, including the requirement for the submission of some particulars concurrently with the reserved matters application. These being; an ecological management scheme and mitigation plan (condition 12), a surface water drainage strategy (condition 14) and a foul water drainage strategy (condition 15). Conditions 14 and 15 were added by Members in addition to those recommended by officers. As the application was originally submitted as a reserved matters application, all the information to accord with the conditions imposed on the outline permission accompanies this application.
- 6.8 Following concerns with the design, forward sited double garages and residential amenities, the application has been amended removing the garages, incorporating a gable feature and variation to the finish of the dwellings and an amendment to the side facing windows.
- 6.9 The dwellings are to be served by two new accesses and turning areas off Oakmead Road (each serving two plots). Each property will be served by 2 parking spaces.

Principle of Development

- 6.10 The principle of residential development on this site for 5 no. dwellings is established through the granting of outline planning permission reference 16/01611/OUT. This permission remains extant and a reserved matters application could be submitted for 5 units.
- 6.11 The applicant has chosen to reduce the number of units to 4 to accommodate the desired house type meaning that a full planning application is now required.

Layout, Scale and Appearance

- 6.12 Paragraph 127 of the NPPF states that planning decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.
- 6.13 The layout responds appropriately to the character of the area with the dwellings fronting Oakmead Road in a linear arrangement. The scheme has been revised following discussions with Officers removing the forward sited garages which are uncharacteristic of the area and gave the development a cramped appearance. The dwellings are sited centrally within their individual plots allowing for well-spaced properties with large rear gardens and spacious frontages. The staggered siting of the dwellings adds interest to the street scene view of the development.
- 6.14 The application proposes 4 no. detached, 1.5 storey, 3 bed dwellings. Additional information has been provided showing the mixed scale and residential character of the area

demonstrating that the 1.5 storey scale and overall height of the dwellings are not out of character or harmful in their context.

- 6.15 The set back from the highway, spacing around the properties, retention of the majority of the front boundary hedgerow and proposed perimeter landscaping assimilates the development into the site and its setting, screening and softening the visual impact within Oakmead Road and any wider landscape impact. Condition 13 of the outline permission removes permitted development rights for the erection of fences, walls or enclosures to the perimeter of the site whilst condition 5 requires details of any proposed enclosures to be submitted to and approved by the Local Planning Authority prior to the commencement of development. These conditions will be re-imposed onto this this full planning permission.
- 6.16 Following discussion with officers, amendments were made to the detailed design and finish of the development. The development consists of one house type with a central gable feature to the front and rear (including a balcony to the rear). The dwellings are to have a rendered finish with slate roof tiles. Plots 2 and 4 include some cladding to the front elevations to add variation to the development itself and enhance the appearance within the street scene. The design of dwellings combine a modern and traditional elements and finishes resulting in an overall acceptable design. Precise materials details are required by condition 4 of the outline consent. This condition will be re-imposed onto this this full planning permission.
- 6.17 The scale, appearance and finish of the properties are considered acceptable in this mixed residential character area. The reduction in the number of dwellings from 5 to 4 units reduces the overall impact of the development.

Coastal Protection Belt

- 6.18 The impact of residential development on the Coastal Protection Belt designation was addressed at the outline stages. It was concluded that the impact will be minimal having regard to the existing settlements also being entirely within this designated area and site abutting existing development.
- 6.19 The development is outside of the flood zone and will not significantly harm the landscape character or quality of the undeveloped coastline.

Access and Parking

- 6.20 Saved 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.
- 6.21 The dwellings are to be served by two new accesses and turning areas off Oakmead Road (each serving two plots). New accesses are permissible as part of this full application. The development was not tied to the single access point shown on the outline plans as this was indicative only as access was a reserved matter. Therefore, the new accesses would also be permissible through a reserved matters application.
- 6.22 The number of dwellings has been reduced from the outline stage from 5 to 4 units. Access to a development for 5 dwellings has been accepted through the granting of the outline application. The reduction in dwellings reduces the traffic movements originally envisaged and approved on the site.
- 6.23 Essex County Council Highway Authority has been consulted on the application (see above for full details). They raise no objection to the proposal and vehicular access arrangements subject to conditions. The conditions recommended by the highway authority will be imposed

where necessary as this is a full permission and therefore not tied to the conditions imposed in the outline consent.

- 6.24 It is noted that a number of objections have been received with regards to highway safety concerns, however as stated the Highway Authority have not raised any concerns from a highway safety aspect, and Oakmead Road is classified as a 'Private Street' therefore Officers consider a refusal on this issue could not be substantiated.
- 6.25 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. 2 spaces are provided for each dwelling in accordance with the above standards.
- 6.26 The development provides sufficient parking and turning for the dwellings. The provision of two accesses to serve 4 dwellings is not excessive. Traffic movements associated with 4 dwellings will not result in any material harm to highway safety and is a reduction in the approved scheme.

Residential Amenities

- 6.27 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'. Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) supports these objectives.
- 6.28 The layout plan submitted demonstrates sufficient separation distances are retained between existing nearby dwellings and the proposed dwellings to ensure that existing and future resident's amenity would not be harmed by the development. Plots 3 and 4 are sited opposite the side of number 45 Oakmead Road but are sited over 30 metres from the property and its garden. Furthermore, the front facing first floor windows and roof lights serve bathrooms and bedrooms and not main living areas. The bathroom window will be obscure glazed and the angled position of the roof lights minimise any overlooking. For these reasons, the development cannot be considered to result in any harmful overlooking or material loss of privacy to number 45 Oakmead Road or other nearby properties.
- 6.29 Spacing between the new dwellings and private gardens are in excess of policy standards secure a good level of amenity for future occupants of the development.
- 6.30 The dwellings propose large windows within their side elevations, some of which serve bedrooms. Following concerns with potential privacy issues from views between the dwellings, amended plans have been submitted. The amendments include a reduction in the size of the windows and obscure glazing. This satisfactorily addresses the issue.
- 6.31 The proposed dwellings include first floor balconies set into the rear gable projection. This will allow some overlooking between the new dwellings but these will be minimal due to the screening from the gable overhang. Nevertheless, prospective buyers will be aware of the detailed design of the properties.

Surface Water Drainage and Foul Water Drainage

- 6.32 Essex County Council as the Lead Local Flood Authority (LLFA) require the submission of a surface water drainage strategy for major scale residential developments comprising 10 or more dwellings or a site in excess of 1 hectare. A drainage strategy is not a statutory

requirement for this scale of development and the LLFA are not required to assess or comment on the application.

- 6.33 The drainage details have been provided to accord with conditions 14 and 15 of the outline consent as requested by Members as the application was originally made as a reserved matters application.
- 6.34 Surface Water will be directed to the north of the site and connection made into the existing ditch within the applicant's land. The water discharging into the ditch will be attenuated with a swale of an appropriate size for this minor scale development. The discharge is controlled to 1 litre/ sec which is the equivalent to the green field run off rate that would typically discharge into the ditch. The topography of the site means that the water falls naturally towards the ditch reducing any risk of flooding either on the application site or nearby. Officers recommended conditions include the use of permeable surfacing to all new hard surfaced areas.
- 6.35 A foul water connection to the main sewer is available in Oakmead Road and the proposed houses will connect to this via a gravity connection.
- 6.36 Building regulations will deal with the particulars of the drainage.

Landscaping and Biodiversity

- 6.37 A Phase 1 Habitat Survey was submitted with the outline application. This found no habitats within the survey area considered to be of high ecological importance on an international, national, regional, county, district or local scale. The habitats on site are of site significance only. The site was not considered suitable for roosting Bats, Reptiles, Water Voles, Otters, Great Crested Newts, Badgers, Hazel Dormice, and plants or invertebrates of significance. A second walkover has been carried out and the report submitted with this application concluding that there is not material change since the original survey.
- 6.38 The original survey concluded the field boundary hedgerow has the potential to be of value to several protected species as well as being of general biodiversity value themselves.
- 6.39 The development proposes a significant amount of additional soft planting to the perimeters of the site that are currently open and includes enhancements to the front boundary hedgerow. The species and siting of the planting is acceptable and takes into account the recommendations within the ecology management report. Implementation of the landscaping can be secured by condition.
- 6.40 The loss of 2 sections of the front boundary hedgerow are compensated by the new planting amounting to an overall biodiversity gain on the site and contributing to the assimilation of the development into its surroundings.
- 6.41 An Ecological Management Scheme has been submitted to satisfy condition 12 of the outline permission. This includes a time table for implementation detailing the installation of hedgehog friendly fencing, bird boxes and the planting of trees, shrubs and hedgerows prior to the completion of construction and details of how the ecological features are to be managed. Officers are satisfied that the scheme is acceptable and meets the aims of the condition originally imposed on the outline consent.
- 6.42 A condition relating to external lighting will be added to ensure the aims of condition 11 of the outline consent are carried forward.

Legal Obligations - Recreational Impact Mitigation

- 6.43 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.
- 6.44 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 6.45 The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zol) being approximately 520 metres from the Essex Estuaries SAC, Colne Estuary SPA and Colne Estuary RAMSAR. New housing development within the Zol would be likely to increase the number of recreational visitors to the Essex Estuary and Colne Estuary and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.46 A completed unilateral undertaking has been provided to secure the financial contribution required to mitigate against any recreational impact from the new dwellings 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.

Legal Obligations – Open Space/Play Space Contribution

- 6.47 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". These sentiments are carried forward within emerging Policy HP5.
- 6.48 There is currently a deficit of 6.44 hectares of equipped play and formal open space in St Osyth and Point Clear. There are three play areas in St. Osyth and Point Clear. The nearest play area to the proposed development is located at Dumont Avenue and is 0.4 miles away. Due to the limited provision in the village it is felt a contribution towards play and formal open space is justified and relevant to this planning application. This contribution would be spent to enhance the existing Point Clear play area at Dumont Avenue.
- 6.49 A completed unilateral undertaking has been provided to secure the financial contribution required. This was not a requirement at the time of the outline application and would not be relevant to a reserved matters application.

7. Conclusion

- 7.1 The principle of residential development on this site has been established and, subject to the inclusion of the conditions contained within the recommendation there is not considered to be any adverse impacts in respect of visual amenity, residential amenities, ecology, drainage or any highway safety. Therefore the application is recommended for approval.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions, informatives and subject to the completed unilateral undertaking with the agreed Heads of Terms, as set out in the table below;

CATEGORY	TERMS
Financial contribution towards RAMS.	£122.30 per dwelling.
Financial contribution towards open space and play space.	To fund enhancements to the existing Point Clear play area at Dumont Avenue.

8.2 Conditions

- 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. 835/10 B, Drawing 835/11 B, Drawing No. 835/12 A, Drawing No. 835/13, Drawing No. 01-19.19.001 - B, Drawing No. 01-19.19.002 - B, Drawing No. 01-19.19.003 - B

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

- 3 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping drawing no 835/13 shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure the adequate maintenance of the approved landscaping scheme for a period of five years in the interests of the character of the surrounding area.

- 4 No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings 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.

Reason - The site is publicly visible and therefore quality materials are an essential requirement and insufficient information has been submitted within the application for full consideration of these details.

- 5 No development shall take place until precise details of the provision, siting, design and materials of screen walls, fences and railings, have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be

erected prior to the dwellings to which they relate being first occupied and thereafter be retained in the approved form.

Reason - To ensure a satisfactory development of the site in the interests of visual and residential amenity.

- 6 No development shall take place until details of the communal bin/refuse collection points within the site have been submitted to and agreed in writing by the Local Planning Authority. The approved details shall be completed prior to the dwellings to which they relate being first occupied and thereafter be retained in the approved form.

Reason - To minimise the time spent by refuse collection vehicles parked within the highway so as to avoid congestion and inconvenience to users of the highway.

- 7 The removal of all vegetation shall only be carried out outside of the bird nesting season (March to August inclusive).

Reason - To ensure the protection of birds potentially nesting on site.

- 8 All new hardstanding and parking areas shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the site.

Reason - In the interests of sustainable development and to ensure that run-off water is avoided to minimise the risk of surface water flooding.

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities
- v. dust suppression techniques

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 10 The development shall be carried out in strict accordance with Recommendation and Conclusions of Geosphere Environmental Ltd (2016) Preliminary Ecological Appraisal report ref. 2198,EC/PEA/LS,KL/11-01-16/V1 Dated 11th January 2017, Ecological Management Scheme 651,EC/LTR001/LT,RF,KL/13-08-19/V2 Dated 13th August 2019 and Ecological Management Scheme Drawing ref. 3651,EC/001/Rev 1 Dated 7th February 2019.

Reason - To preserve and enhance the biodiversity of the site.

- 11 No means of external lighting shall be installed until details of an illumination scheme have been submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details.

Reason - In the interests of biodiversity and prevent the undesirable, disruptive and disturbing effects of light pollution.

- 12 Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no provision of fences, walls or other enclosures, shall be erected on the perimeter of the site except in accordance with drawings showing the design and siting of such enclosures which shall previously have been submitted to and approved, in writing, by the Local Planning Authority by way of a planning application.

Reason - In the interests of visual amenity and to preserve the semi-rural character of the surrounding area.

- 13 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B, C and 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 any of the dwellings or their roofs, 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 - It is necessary for the local planning authority to be able to consider and control further development in order to ensure that landscape harm does not result in this edge of settlement location and to ensure that no harm to neighbouring amenities will occur.

- 14 Prior to the first occupation of the dwellings hereby approved the accesses at their centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 17 metres in both directions as measured from and along the nearside edge of the carriageway in accordance with approved Drawing No. 835/10 B. Such vehicular visibility splays shall be provided before the accesses are first used by vehicular traffic and retained free of any obstruction at all times.

Reason - To provide adequate inter-visibility between vehicles using the accesses and those in the existing public highway in the interest of highway safety.

- 15 Prior to first occupation of the development the vehicular turning facility shown on the approved Drawing No. 835/10 B shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason - To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

- 16 Prior to first occupation of the development the vehicular accesses shall be constructed at right angles to the proposed carriageway. The width of the access at its junction with the highway shall not be less than 4.1 metres shall be retained at that width for 6 metres within the site in accordance with approved Drawing no. 835/10 B.

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

- 17 Prior to first occupation of the development, the vehicle parking shown on approved Drawing no. 835/10 B shall be constructed, surfaced and made available in accordance with the EPOA Parking Standards and maintained free from obstruction within the site at all times for that sole purpose.

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 for each dwelling.

- 18 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.

8.3 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 Agent, 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 - 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.

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.

Highways Informatives

Informative 1: 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.

Informative 2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 3: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

SMO1 ' Essex Highways
Colchester Highways Depot
653 The Crescent

Colchester
CO4 9YQ

Informative 4: Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway to ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety.

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 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:
 - 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - 9.3 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
 - 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 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.
- 9.6 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.
- 9.7 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

- 9.8 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.
- 9.9 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).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation

to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

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

10. Background Papers

None.