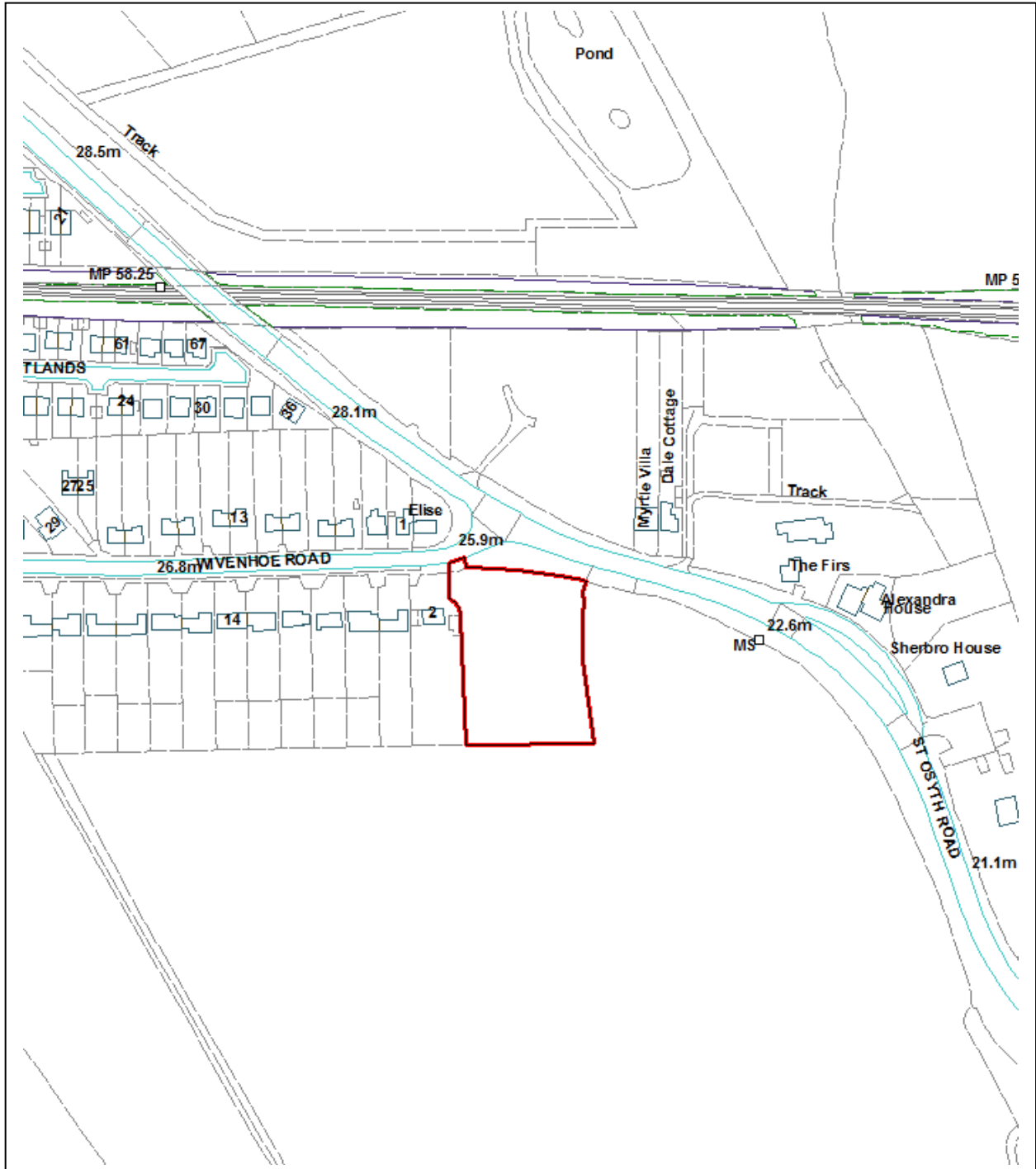


PLANNING COMMITTEE

22 OCTOBER 2019

REPORT OF THE HEAD OF PLANNING

**A.4 PLANNING APPLICATION – 19/01261/FUL – LAND ADJACENT 2 WIVENHOE ROAD
ALRESFORD CO7 8AD**



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Application: 19/01261/FUL

Town / Parish: Alresford Parish Council

Applicant: Mr & Mrs K Pope

Address: Land adjacent 2 Wivenhoe Road Alresford CO7 8AD

Development: Residential development of 3no. dwelling houses.

1. **Executive Summary**

- 1.1 This application is to be determined by the Planning Committee as one of the applicants is employed by Tendring District Council within the Planning Department.
- 1.2 The application site is located within the defined Settlement Development Boundary for Alresford, as defined by the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). The principle for residential development is therefore acceptable.
- 1.3 A proposal for three dwellings on this site was previously refused and dismissed at appeal, with the focus solely on the effect of the development on the character and appearance of the area.
- 1.4 The submitted plans have reduced the size of the dwellings and their plots, amended their design, and have sited them further forward to be more in-keeping and in close proximity with the existing building line to the west.
- 1.5 The proposal does not represent significant harm to existing trees or neighbouring amenities, while Essex Highways Authority support the application subject to conditions. A legal agreement to cover financial contributions towards Open Space and RAMS has also been completed. Therefore, subject to a number of conditions, the application is recommended for approval.

Recommendation:

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

- a) Subject to the conditions stated in section 8.2

2. **Planning Policy**

- 2.1 The following Local and National Planning Policies are relevant to this planning application:

NPPF National Planning Policy Framework

National Planning Practice Guidance

Tendring District Local Plan 2007:

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

- EN6a Protected Species
 - EN11A Protection of International Sites: European Sites and RAMSAR Sites
 - EN29 Archaeology
 - HG1 Housing Provision
 - HG3 Residential Development within Defined Settlements
 - HG6 Dwelling Size and Type
 - HG9 Private Amenity Space
 - HG14 Side Isolation
 - QL1 Spatial Strategy
 - QL9 Design of New Development
 - QL10 Designing New Development to Meet Functional Needs
 - QL11 Environmental Impacts and Compatibility of Uses
 - TR1A Development Affecting Highways
 - TR7 Vehicle Parking at New Development
- Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)
- LP1 Housing Supply
 - LP2 Housing Choice
 - LP4 Housing Layout
 - PPL3 The Rural Landscape
 - PPL4 Biodiversity and Geodiversity
 - PPL7 Archaeology
 - SPL1 Managing Growth
 - SPL2 Settlement Development Boundaries
 - SPL3 Sustainable Design

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

13/00833/OUT	Outline application for 5 new dwellings.	Refused	14.11.2013
14/01144/OUT	Outline application for 5 dwellings (revised application following refusal 13/00833/OUT).	Withdrawn	01.04.2015
15/01686/FUL	Construction of a new single storey low impact sustainable dwelling. The proposal will incorporate the	Approved	11.02.2016

	provision of a driveway and double garage.		
18/01381/FUL	Residential development of 3 dwelling houses.	Refused	24.10.2018
18/01775/FUL	Proposed residential dwelling house and garage.	Approved	16.01.2019

4. Consultations

ECC Highways Dept

The information that was submitted in association with the application has been fully considered by the Highway Authority. A previous application under application no. 18/01381/FUL was submitted last year for an identical proposal for the same site therefore:

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

1. Prior to the first occupation of the proposed dwellings, the proposed vehicular access and off-street parking and turning facilities shall be provided in accordance with Drawing Number 41 Rev A with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety and in accordance with Policy DM 1 and 8.

2. Prior to 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. The Cycle / Powered Two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

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

4. Each vehicular parking space shall have minimum

dimensions of 2.9 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

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

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

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1.

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

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1.

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: The Highway Authority observes that there are no Personal Injury Accidents recorded in the vicinity of the proposed vehicular access.

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.

later activity, however the area of the proposed houses lie beyond this and are of a scale that they are unlikely to impact on any significant archaeological remains. There is no recommendation for this application.

5. Representations

5.1 Alresford Parish Council have objected to the application on the following grounds:

- Site lies outside of a settlement boundary;
- Harm to the nearby SPA;
- Highway risk as access near to junction of B1027; and
- Would result in harm to character and appearance of the area.

5.2 There has been four letters of objection received, with their comments summarised below:

- The access point is not suitable for multiple dwellings;
- Area already has high traffic levels;
- The design of dwellings is not what the area needs;
- Design could change if approval was granted;
- Visual harm as a result of a loss of Leylandii; and
- Approval will lead to a future application for further dwellings.

6. Assessment

Site Context

- 6.1 The site is situated to the south of the junction of Wivenhoe Road and St Osyth Road in Alresford, and is currently laid to grass. Along the north boundary of the site there is mature trees and hedgerow which provide screening.
- 6.2 The site is currently accessed via an entrance to the western side of the site adjacent to No. 2 Wivenhoe Road. Wivenhoe Road is a residential street, with a mix of dwellings of different styles and designs, each with large rear gardens and generally arranged in a linear manner. On the opposite side of the St Osyth Road there is a cluster of residential properties.
- 6.3 The site falls adjacent to, but outside of, the Alresford Settlement Development Boundary within the Adopted Tendring Local Plan 2007 but falls inside the Settlement Development Boundary for Alresford within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Description of Proposal

- 6.4 This application seeks planning permission for the erection of three detached residential dwellings. Each dwelling is to be 1.5 storey, served by four bedrooms, and will each have a single garage.

History

- 6.5 Under planning reference 13/00833/OUT, an application for five dwellings was refused on the grounds that it would represent a significant extension of ribbon development located outside of any defined settlement limit, and would not constitute a minor infill but instead a harmful intrusion into the rural street scene. This decision was upheld at appeal (reference APP/P1560/A/14/2212508).

- 6.6 Since these decisions, the application site has been included within the Settlement Development Boundary for Alresford within the Emerging Plan. Under planning reference 15/01686/FUL, planning permission was therefore granted for a single detached dwelling.
- 6.7 More recently, under planning reference 18/01381/FUL, the Planning Committee determined to refuse an application on this site for three dwellings. The reasons for this refusal was the proposed dwellings, by respect of their large size and siting behind the existing building line within spacious open plots, would appear as a prominent and incongruous feature, and would therefore represent a form of ribbon development that would not appear in-keeping with the surrounding semi-rural street scene.
- 6.8 This decision was dismissed at appeal (appeal reference APP/P1560/W/19/3222077, dated 13 June 2019), with the Inspector concluding "*I have found that the proposed development would be contrary to the development plan in that it would result in material harm to the character and appearance of the area, to which I afford significant weight. Moreover, even if the Council is unable to demonstrate a five year housing land supply and whether or not the policies which are the most important for determining the appeal are out-of-date, the harm I have found to the character and appearance of the area is serious and in my view, that significantly and demonstrably outweighs the benefits of the scheme when assessed against the policies in the Framework taken as a whole. As such the presumption in favour of sustainable development as envisaged by the Framework does not apply in this case.*"
- 6.9 The Planning Committee, dated 15 January 2019, granted planning permission for one detached residential dwelling on this site under planning reference 18/01775/FUL.

Amendments following appeal decision

- 6.10 Planning appeal decision APP/P1560/W/19/3222077 dismissed the appeal for three dwellings at this site. The application submitted has sought to overcome the concerns raised by the Inspector, as shown below:
- The design of the dwellings has been reduced from two storey to 1.5 storey, which incorporates a reduction in width and height of each dwelling, and lower eaves height and dormers;
 - Plot 1 now does not resemble the previous Essex barn design;
 - Change of materials to show a mixture of cream render and brick;
 - Single storey garages in comparison to the larger garages previously; and
 - The three plots are less spacious and sited further forward.

Principle of Development

- 6.11 The application site is located within the defined Settlement Development Boundary for Alresford, as defined by the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.12 Policy HG3 of the Adopted Tendring Local Plan 2007 and 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.

Layout, Design and Appearance

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

- 6.14 In refusing planning application 18/01381/FUL, the Planning Committee considered the proposed dwellings, by respect of their large size and siting behind the existing building line within spacious open plots, would appear as a prominent and incongruous feature, and would therefore represent a form of ribbon development that would not appear in-keeping with the surrounding semi-rural street scene. While this decision was upheld at appeal, the applicant has sought to overcome the concerns raised by the Inspector, which will be explained in detail below.
- 6.15 Within the earlier appeal decision the Inspector highlighted that “*The development of the site with three substantial dwellings would fail to respect the close knit urban grain to the west and would interrupt the established rhythm of development in the area.*” and “*notwithstanding that plot one attempts to reflect the conversion of a traditional Essex barn, it nonetheless would be a substantial building occupying a prominent position that would dominate the site.*” The plans submitted have sought to overcome the concern of the substantial size of the dwellings, and show that there are to be three detached dwellings, each of which will now be 1.5 storey (previously two storeys) and serving four bedrooms. The design includes front and rear facing dormers, and a low eaves height, while the predominant use of materials is cream render and brick. It is also noted that the design of Plot 1 now does not mimic its previous Essex barn approach, and is instead more in-keeping with the sub-urban character of the area. All of these amendments are in-keeping with the existing development to the west, and help the dwellings to assimilate well within their surroundings.
- 6.16 The Inspector also identified that the site has a greater physical relationship with the developed area to the west than the more open and rural character on the opposite side of the road, and stated “*The existing properties along Wivenhoe Road, and in the area generally, have been developed in close proximity to each other. While there isn’t an absolute uniform spacing about the buildings, there is nonetheless a pleasing sense of rhythm to the area.*” Following this, the applicant has revised the proposed layout to ensure the dwellings are set in less spacious plots, relocated Plot 1 to be less detached and more related to Plots 2 and 3, and sited all dwellings further forward so that they are more in line with the existing building line running west to east. Therefore, despite it being acknowledged that Plots 2 and 3 are set back from the existing building line by 3m and 4m respectively, the proposed layout has overcome the concerns raised by the Inspector and is now considered acceptable.
- 6.17 Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of three bedrooms or more should be a minimum of 100 square metres. The information that has been supplied demonstrates that this is comfortably achieved for all three proposed dwellings.

Impact on Neighbouring Amenities

- 6.18 Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.19 The only adjacent neighbour potentially impacted by the proposal is Number 2 Wivenhoe Road, located to the west of the site. However, given that the nearest plot, Number 3,

maintains 2.5m to the boundary and an overall 10m separation distance, the impact of the dwellings in terms of loss of light or appearing imposing will be significantly reduced.

- 6.20 In respect of potential overlooking, plot 3 has no first floor side elevation windows that could directly overlook, whilst the two first floor rear elevation windows will only have views to further rear of the neighbouring garden, an area less likely to be regularly occupied.

Tree and Landscaping Impacts

- 6.21 The application site is set to grass and is well screened by a number of trees of a mixed species to the northern boundary. The development can be implemented without harm being caused to these trees, but they should be retained for the contribution they make to the amenity of the locality and for their screening value.
- 6.22 There is a line of Cupressocyparis Leylandii situated to the left hand side of the existing access that would be removed if the proposal was implemented; however whilst these have some visual amenity value they do not merit protection by means of a Tree Preservation Order.
- 6.23 A large Oak tree is situated in the highway in front of 2 Wivenhoe Road that is covered by Tree Preservation Order 10/46; however the tree is unlikely to be affected by the development proposed given that the access being used is as existing.
- 6.24 A condition is recommended to be attached to secure details of the steps that will be taken to physically protect retained trees, whilst a further condition is recommended to secure details of boundary treatments abutting the open countryside. Post and rail fencing with native hedging directly adjacent would be in-keeping with the areas character.

Archaeological

- 6.25 The Archaeological team at Essex Place Services have stated the proposed development lies adjacent to recorded cropmark evidence which may indicate prehistoric or later activity, however the area of the proposed houses lie beyond this and are of a scale that they are unlikely to impact on any significant archaeological remains.

Highway Safety

- 6.26 Essex County Council Highways have been consulted. They raise no objections subject to conditions relating to the off street parking and turning facilities, a vehicular turning facility, the submission of a Construction Method Statement and the use of no unbound materials. All of these conditions are recommended on this decision bar the submission of a vehicular turning facility as this has already been provided within the submitted plans.
- 6.27 A further condition relating to the storage of bicycles has been requested; however given that there is significant room within the proposed garages and private garden areas, this condition is not recommended to be included.
- 6.28 Furthermore, the Council's Adopted Parking Standards require that for dwellings with two or more bedrooms that a minimum of two parking spaces are required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally.
- 6.29 The submitted plans show that each plot will have a garage that meets the above requirements, while there is room to the front of each garage to accommodate the remaining necessary parking.

Legal Obligations

- 6.30 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".
- 6.31 There is currently a deficit of 1.91 hectares of equipped play and formal open space in Alresford. The closest play area and recreation ground is located off St Andrews Close, approximately 0.5 miles away, and is designated as a Local Equipped Area for Play. To cope with the additional usage it would be necessary to increase the size of this play area, and therefore a contribution is both justified and relevant to this application.
- 6.32 A unilateral undertaking has been completed to secure this legal obligation and to ensure compliance with saved policy COM6.

Habitat Regulations Assessment

- 6.33 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.
- 6.34 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 the RAMS level 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. The contribution is secured by unilateral undertaking. There is therefore certainty 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

- 7.1 In summary, the application site falls within the Settlement Development Boundary of Alresford within the Emerging Local Plan, thereby ensuring the principle of development is acceptable. While a previous scheme for three dwellings on this site was previously refused and dismissed at appeal, it is considered that the submitted plans have overcome the concerns raised by the Inspector; namely by reducing the size of the dwellings, amending their design, and siting them further forward to be more in-keeping with the existing building line to the west. There are no harmful impacts to either existing trees on site or neighbouring amenities, while subject to conditions Essex Highways Authority do not object. A legal agreement has been completed for contributions towards Open Space and RAMS, and therefore subject to the conditions shown below the application is recommended for approval.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

8.2 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 numbers 40A, 41A, 42A, 43A, 44A, 45A, 46A, 47A, 48A, 49A, and the document titled 'Planning Statement'.

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

- 3 Prior to occupation of the proposed development, details of the steps that will be taken to physically protect retained trees shall be submitted to and approved by the Local Planning Authority.

Reason - To ensure the protection of the retained trees on site.

- 4 Prior to the commencement of any above ground works, a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the Local Planning Authority. The approved boundary treatments shall be implemented before the dwelling hereby permitted is occupied and retained in this approved form in perpetuity.

Reason - In the interests of protecting the semi-rural landscape and in the interests of visual amenity.

- 5 Prior to the commencement of any above ground works, a scheme of hard and soft landscaping works for the site shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction.

Reason - To enhance the visual impact of the proposed works.

- 6 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details 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 enhance the visual impact of the proposed works.

- 7 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B 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 to the dwelling or the 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 or building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - To protect the semi-rural landscape and in the interests of visual amenity.

- 8 Prior to the first occupation of the proposed dwellings, the proposed vehicular access and off-street parking and turning facilities shall be provided in accordance with Drawing Number 41 Rev A with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety.

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

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

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

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

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

8.3 Informatives

Positive and Proactive Statement

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

Highways Informatives

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.

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.

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.

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.