

PLANNING COMMITTEE
17 DECEMBER 2019
REPORT OF THE HEAD OF PLANNING

**A.4 PLANNING APPLICATION – 19/01527/FUL – OWL LODGE VICARAGE LANE THORPE
LE SOKEN CO16 0EH**



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Application: 19/01527/FUL

Town / Parish: Thorpe Le Soken Parish Council

Applicant: Mrs Christine Hickford

Address: Owl Lodge Vicarage Lane Thorpe Le Soken Clacton On Sea Essex CO16 0EH

Development: Proposed erection of three detached 3 bed bungalows.

1. **Executive Summary**

- 1.1 This application is before the Planning Committee as it was called in by Councillor Land on the grounds that the proposal will negatively impact the street scene, result in a detrimental highways impact, and will be harmful to neighbours. In a separate objection letter, concerns have also been raised with regards to a covenant on the site ensuring it cannot be developed.
- 1.2 The application site falls outside of a recognised settlement development boundary within both the Adopted and Emerging Local Plans. However, given the Council is unable to demonstrate a five year supply of housing, the proposal has been assessed against the economic, social and environmental strands of sustainability.
- 1.3 The application is considered to provide economic benefits, and is also considered to be within a socially sustainable location in walking distance to the Thorpe-le-Soken High Street, which offers a number of facilities such as retail units and restaurants, and is connected via footpaths and street lighting.
- 1.4 Following a recent appeal decision, there is now a precedent set for development beyond the existing settlement in this location, and therefore, on balance, the erection of three dwellings will not significantly harm the character and appearance of the area, or result in a prominent intrusion into the open countryside, and therefore also meets the environmental strand of sustainability.
- 1.5 The development will not result in harm to neighbouring amenities, harm to any trees, and Essex Highways Authority have raised no objections subject to conditions. A legal agreement has been completed to secure contributions towards Open Space and RAMS.

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**

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:

- COM6 Provision of Recreational Open Space for New Residential Development
- EN1 Landscape Character
- EN6 Biodiversity
- EN11A Protection of International Sites European Sites and RAMSAR Sites
- HG1 Housing Provision
- 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):

- CP1 Sustainable Transport and Accessibility
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- SP1 Presumption in Favour of Sustainable Development
- SPL1 Managing Growth
- SPL3 Sustainable Design

Local Planning Guidance:

Essex County Council Car Parking Standards – Design and Good Practice

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (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.

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

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

48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

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

3. Relevant Planning History

N/A

4. Consultations

ECC Highways Dept

The information that was submitted in association with the application has been fully considered by the Highway Authority.

In this location St Michaels Road is classed as a Private Street; i.e. a highway rights exists over the surface. This route is known as Public Footpath 5, (Thorpe le Soken) and as such the legal highway users are pedestrians with usual accompaniment. All other traffic uses this route as a private right of access. The original application 16/01386/OUT was allowed on appeal. The proposal is at the end of a private street and retains adequate room and provision for off street parking and turning, for the proposed dwellings 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 occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access and for each vehicular

access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1.

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

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

4. Prior to occupation of the dwelling with the single vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 4.5 metres (equivalent of 5 low kerbs), 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.

5. Prior to the occupation of the dwellings with the shared access, the proposed shared private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

6. The public's rights and ease of passage over public footpath no. 5 (Thorpe le Soken) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in

accordance with Policies DM1 and DM11.

7. 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.

8. 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.

9. All double garages should have a minimum internal measurement of 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.

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

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

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

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

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

Informative 1: Steps should be taken to ensure that the Developer provides enough turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site. No vehicles

associated with the development shall affect the ease of passage along the PROW.

Informative 2: 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.

5. Representations

- 5.1 Thorpe-le-Soken Parish Council have not commented on the application.
- 5.2 There have been seven letters of objection received, with a summary of their concerns raised below:
- Development is an urban expansion into the open countryside;
 - There are covenants in place on this land to restrict such development;
 - Impacts to local infrastructure;
 - Loss of views;
 - Small access into site would be difficult for emergency services to reach;
 - Wider highway safety implications;
 - Depreciate value of existing dwellings;
 - Site is outside of a settlement boundary;
 - Will set a precedent for similar forms of development; and
 - The proposal is a form of backland development.

6. Assessment

Site Description

- 6.1 The application site is land located to the north of two residential dwellings known as 'Gables' and 'Owl Lodge', which is sited to the northern corner of St Michael's Road within the parish of Thorpe-le-Soken. The site is currently laid to grass, but is reasonably populated with small trees and shrubs. The surrounding area is characterised as semi-rural, with urban built form predominantly to the south, while two dwellings have recently been granted planning permission to the east. To the north the character becomes more rural, with large areas of grassed and agricultural land.
- 6.2 The site falls adjacent to, but outside of, the Settlement Development Boundary for Thorpe-le-Soken within both the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Description of Proposal

- 6.3 This application seeks full planning permission for the erection of three detached bungalows, each to be served by three bedrooms.

Principle of Development

- 6.4 The application site lies outside of a Settlement Development Boundary as defined within the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.5 Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined

within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.

- 6.6 The National Planning Policy Framework 2019 (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.
- 6.7 At the time of this report, 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.
- 6.8 Whilst it is recognised that there would be conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site being sited outside the settlement development boundary, as stated above, in the context of the 5 year housing land supply paragraph 11 d) of the NPPF requires applications for housing development to be assessed on their merits, whether sites are allocated for development in the Local Plan or not and it is important to consider whether any circumstances outweigh this conflict.
- 6.9 Therefore, at this present time, it is correct to assess the housing development on its merits against the sustainable development objectives set out within Paragraph 8 of the NPPF. The economic objective, a social objective and an environmental objective are therefore assessed below.

Economic:

- 6.10 It is considered that the proposal for three dwellings would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants using the nearby facilities, and so meets the economic arm of sustainable development.

Social:

- 6.11 Socially, it is necessary to consider the proximity to services and facilities, such as healthcare, schools, convenience shopping and jobs and whether these would be accessed by sustainable modes of transport. Within the Council's 'Established Settlement Hierarchy' (2016) Thorpe-le-Soken performs well, with a primary school, GP Surgery, defined village centre and a good bus route. The site itself is approximately 350 metres from the Thorpe-le-Soken High Street, which offers a number of facilities such as retail units and restaurants, and is connected via footpaths and street lighting. Given all of the above the site is considered to meet the social strand of sustainability.

Environmental:

- 6.12 The environmental role is about contributing to protecting and enhancing the natural built and historic environment which is considered below under Impact on Surrounding Area.

Impact on Surrounding Area:

- 6.13 The application site is sited to the rear of two properties known as 'Owl Lodge' and 'Gables', however does not represent a form of backland development given that it is accessed via an existing highway.
- 6.14 The existing development to the south of the site is well defined, and the proposal would be sited beyond this. Ordinarily it could be argued that this development, in going beyond this existing building line, would be harmful to the character and appearance of the surrounding area. However, it must also be acknowledged that under planning appeal decision APP/P1560/W/17/3168892 (Land known as the Brambles, St Michaels Road, Thorpe-le-Soken, dated 18 July 2017), the Planning Inspectorate allowed two dwellings to be approved adjacent to the east of the site. Within this decision, the Inspector stated "*The erection of the proposed dwellings and associated access and boundary enclosures would extend built development further north. However, it would appear as continuation of the existing linear pattern of settlement along St Michael's Road and would be fairly effectively enclosed by established planting*" . . . "*Consequently, whilst the proposal would, inevitably, bring about a localised change to the character of the site, I consider that its effect on the wider landscape would be negligible.*"
- 6.15 While it is acknowledged that the two sites differ and that the proposed development may not appear as a continuation of the existing development in the same manner as the site previously granted permission was, this decision is a material consideration in that the Inspector was satisfied with the change in the character of the area from two new dwellings. There is now a precedent set for development beyond the existing settlement, and therefore, on balance, the erection of three dwellings in this location will not significantly harm the character and appearance of the area, or result in a prominent intrusion into the open countryside. The environmental strand of sustainability has therefore been met.

Design, Layout and Appearance

- 6.16 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).
- 6.17 The development will include a total of three dwellings, all of which will be detached and single storey. The proposed layout shows the dwellings to be arranged in a linear fashion running south to north of the site, with two separate access points. There are no objections to this layout. The proposed scheme will see three separately designed dwellings, all of which include key features to help soften their appearance, including front gables and window details. Given this, and that the use of red brick and render are acceptable materials, there are no objections to the design proposed.
- 6.18 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 plans show that the private amenity areas for all plots far exceed these requirements, while the existing dwellings 'Gables' and 'Owl Lodge' will also have far in excess of the minimum standards.

Impact to Residential Amenities

- 6.19 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).
- 6.20 The private accesses would be located to the eastern section of the site, off St Michael's Road. There are no existing properties either side of the access points, ensuring no harm in respect of noise and disturbance through comings and goings associated with the development. To the east of the site two dwellings have recently been granted planning permission, with one currently under construction. There is significant separation distances between the site and these dwellings, and therefore there will be a neutral impact to their amenities.
- 6.21 With regards to the amenities of the neighbouring properties to the south, while the dwellings will be visible, there is an approximate 15 metres separation distance. Given this separation distance and that the dwellings are all single storey, there is not considered to be harm with respect to overlooking, loss of light or the development appearing imposing.

Highway Safety

- 6.22 Essex County Council as the Highway Authority has been consulted on the application and has stated that they have no objections subject to conditions relating to visibility splays, vehicular turning facilities, the use of no unbound materials, the width of the access, the public footpath, and that any boundary planting must be set back a minimum of 1 metre from the highway. A further condition relating to cycle storage provision was requested, however given there is sufficient space within all three plots for this, it is not recommended to include this condition on this occasion.
- 6.23 Furthermore, the Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. While the submitted plans show each plot to have garages that do not meet these requirements, there is provision in front of the garages to accommodate the two required parking spaces.

Tree and Landscape Impacts

- 6.24 The main body of the application site currently forms part of the residential curtilage of the host property and is set to grass. The garden is reasonably well populated with small trees and shrubs with the most important tree being a mature Oak on the northern boundary and two other Oaks on the eastern boundary.
- 6.25 The Proposed Site Layout Plan shows that all three Oaks are to be retained. There appears to be sufficient separation between the trees and the proposed dwelling to enable the development to take place without causing harm to them.
- 6.26 The boundary of the application site with St Michael's Road is currently demarcated by an established and attractive garden hedge comprising of a selection of decorative shrub species. The loss of the hedge will adversely affect the appearance of the area but the harm caused by its removal can be mitigated by new planting.
- 6.27 In order to show how retained trees will be physically protected for the duration of the construction phase of any development the applicant will need to provide details of the extent

of the Root Protection Areas (RPA's) of the trees. They will also need to show how the RPA's will be physically protected for the duration of the construction phase of any development. Accordingly these, as well as soft landscaping details, are recommended as conditions should the Planning Committee recommend approval.

Legal Obligations

- 6.28 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".
- 6.29 There is currently a deficit of 2.43 hectares of play and formal open space in Thorpe-le-Soken. The Parish have recently developed another area of open space known as Lockyer Wood. They have included some play provision but this is an ongoing project to reduce the deficit of play facilities in Thorpe. Due to the significant lack of provision in the area it is felt that a contribution is both justified and relevant to the planning application and that this money would be used towards providing additional facilities at Lockyers Wood.
- 6.30 A unilateral undertaking has been completed to secure this legal obligation and to ensure compliance with saved policy COM6.

Habitats Regulation Assessment

- 6.31 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.
- 6.32 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 the Hamford Water Ramsar and SPA. The contribution is secured by unilateral undertaking. There is therefore certainty that the development would not adversely affect the integrity of the Hamford Water Ramsar and SPA 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.

Other Considerations

- 6.33 A number of representations have been received stating that there is a covenant on the application site that restricts such a development. This is not a material planning consideration, and should the Planning Committee grant planning permission, this would therefore need to be addressed separately.

7. Conclusion

- 7.1 In conclusion, while the site falls outside of a recognised Settlement Development Boundary the Council is unable to demonstrate a five year housing supply and must therefore assess the application on its own merits. The proposal would represent an economic and social form of

sustainable development, and following an earlier appeal decision on a site adjacent it is considered there would also not be environmental harm. The development will not result in harm to neighbouring amenities, while Essex Highways Authority have raised no objections. 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 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, 001, 002, 003, 004, 005, 006, 007, 008, 009, 010, 012, and the document titled 'Construction Method Statement'.

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

3 Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access and for each vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

4 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.

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

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

6 Prior to occupation of the dwelling with the single vehicular access (Plot 1) it shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 4.5 metres (equivalent of 5 low kerbs), and 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.

- 7 Prior to the occupation of the dwellings with the shared access, the proposed shared private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

- 8 The public's rights and ease of passage over public footpath no. 5 (Thorpe le Soken) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way.

- 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.

- 10 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.

- 11 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.

- 12 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.

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.

Legal Agreement Informative - Open Space/Play Space Contribution:

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

Legal Agreement Informative - Recreational Impact Mitigation:

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

Highways Informatives:

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

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.

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