

Application: 20/00019/FUL

Town / Parish: Clacton Non Parished

Applicant: Mr John Coley

Address: 85 Salisbury Road Holland On Sea Clacton On Sea CO15 5LS

Development: Proposed 3 bedroom bungalow to land to the side of 85 Salisbury Road.

1. **Executive Summary**

- 1.1 The application has been referred to Planning Committee by Councillor Winfield as the proposed development is considered contrary to policy HG9, HG14, TR1a, the neighbouring mature tree roots are in danger of damage during construction, the Tree and Landscaping Officers comments on the tree roots of the established tree on the proposed building plot, the development will add to global warming by adding another gas boiler to pump out not including solar panels and TDC has agreed to and is currently working on, cutting its carbon footprint by 2030 this development opposes the Councils own target.
- 1.2 The application seeks planning permission for the erection of a 3 bed bungalow to the land to the side of 85 Salisbury Road, Holland on Sea.
- 1.3 The site lies within the Settlement Boundary for Clacton on Sea, as established in the Tendring District Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 1.4 The site has been subject of a previous application for the same development (application ref.18/02072/FUL) which had an officer recommendation for approval to the June 2019 Planning Committee but was ultimately refused due to the narrow plot width being considered to create a cramped appearance not appropriate in its setting, and which would appear out of character in terms of its siting to the serious detriment of the immediate street scene and character of the area.
- 1.5 The aforementioned application was subject of an appeal which was dismissed on 13 December 2019. However, the reason for dismissal was purely on a legal technicality in relation to a failure to secure the necessary mitigation for the effect of the proposed development on the European designated habitat sites (RAMS). Whilst a Unilateral Undertaking had been provided to secure the necessary financial contribution it had not been signed and as such it could have no legal effect and could not be taken into account. In all other respects the Planning Inspector was satisfied that the proposed development would have no harm on the character and appearance of the area or the living conditions of the occupiers of the occupants of the neighbouring properties and as such would not be in conflict with adopted Local Plan policies.
- 1.6 Given the above appeal decision - and subject to the applicant entering into a Unilateral Undertaking to secure financial contributions towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) (and Open Space requirements, as explained in the main body of this report) – the application is considered acceptable in terms of scale, layout and appearance and is accordingly recommended for approval.

Recommendation:

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

- a) **Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):**
- **Financial Contribution of £122.30 per new dwelling towards RAM's.**
 - **Open Space Contribution to be used towards the improvement to the safety surface at Hereford Road**
- b) Subject to the conditions stated in section 8.2
- c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

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

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG9 Private Amenity Space

HG14 Side Isolation

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

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

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

LP1 Housing Supply

LP2 Housing Choice

LP4 Housing Layout

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

PPL4 Biodiversity and Geodiversity

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 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

TRE/99/14	Oak and Birch - 30% crown reduction	Current	11.03.1999
06/01911/FUL	Extension to dwelling.	Approved	23.01.2007
07/01082/FUL	Conservatory extension.	Approved	20.08.2007
18/00188/TPO	1 No. Beech - front garden - crown reduce and crown lift to 14 ft. 1 No. Silver Birch- fell.	Approved	06.03.2018
18/01631/LUPROP	Proposed attached garage.	Lawful Use Certificate Granted	21.11.2018
18/02072/FUL	Proposed 3 bedroom bungalow to land to the side.	Refused	14.06.2019

4. Consultations

TDC Public Realm

There is currently a deficit of 17.68 hectares of equipped play/open space in Holland/Clacton-on-Sea.

Any additional development in Holland/Clacton will increase demand on play facilities further.

The nearest play area to the application site is located at Hereford Road, Holland-on-Sea. The area is designated as a Local Equipped Area of Play and provided equipment for children of all ages. This play area already covers a large a large part of Holland-on-Sea and it is felt

that any further development in this area will impact on the current facilities. Therefore, a contribution to improvements at this play area is both relevant and justified for this planning application.

ECC Highways Dept

A site visit has been undertaken and the information that was submitted in association with the application has been fully considered by the Highway Authority.

The site is located off Salisbury Road which has existing 30-mph speed limit. The plot retains adequate room and provision for off street parking for the existing and proposed vehicular access. Accordingly, the Highway Authority has no objection to the application subject to the imposition of a number of planning conditions and informatives.

5. Representations

5.1 Clacton is non-parished

5.2 2 letters of objection have been received raising the following concerns;

- The actual site is too small for the design of the property.
- This will not be an affordable property.
- There is no need for any more bungalows.
- Comments from the Tree and Landscape officer in regards to the root protection area (RPA).
- Contrary to policy HG6, HG9, HG14 and QL9.
- The dwelling will have a significant impact upon the neighbouring visual amenity due to its cramped appearance and overbearing structure as well as overshadowing.
- Concerns over security during construction and the removal of the fence.
- Services and utilities of the new dwelling could harm and damage the tree roots
- The proposed development would cause overshadowing, compromise the integrity of the visual amenity to the rear gardens of the properties along Princes Road.

6. Assessment

Site Context

6.1 The application site is located to the north of Salisbury Road and is a parcel of land which currently forms part of the side garden to number 85 Salisbury Road, Holland on Sea. The site is situated in-between number 85 Salisbury Road and abuts the boundaries of number 1, 3, 5 and 7 Princes Road. The surrounding area comprises of a mixture of one storey and two storey residential dwellings.

6.2 The site lies within the Settlement Boundary for Clacton-on-Sea, as established in the Tendring District Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

6.3 It is noted that a 1.8 metre close boarded fence is proposed to the boundary shared with Number 85 Salisbury Road and to the rear of numbers 1, 3, 5 and 7 Princes Road. This falls within permitted development tolerances allowed under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 2, Minor operations, Class A which states that the erection, construction,

maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure is permitted provided the height does not exceed 2 metres above ground level.

Planning History

- 6.4 Planning Permission was refused at Planning Committee in June 2019 on the grounds of the narrow plot width would resulting in a proposed dwelling of cramped appearance that is not appropriate in its setting, and which would appear out of character in terms of its siting to the serious detriment of the immediate street scene and character of the area. The application was taken to planning appeal and it was dismissed by the Planning Inspectorate on 13th December 2019 under planning reference APP/P1560/W/19/3234819. The appeal was dismissed as an unsigned copy of the unilateral undertaking had been provided. Paragraph 6 of the appeal decision states that *'...therefore the undertaking can have no legal effect and it cannot be taken into account. Consequently, there is no mechanism to secure the necessary mitigation for the effect of the proposed development on the European designated sites.'*
- 6.5 It should be noted that in all other respects the Planning Inspector was satisfied that the proposed development would not result in any harm to the character and appearance of the area or the living conditions of the occupiers of the occupants of the neighbouring properties and as such would not be in conflict with adopted Local Plan policies.

Proposal

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

Principle of Development

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

Design, Layout and Appearance

- 6.11 Paragraphs 127 and 170 of the National Planning Policy Framework 2019 states that developments should function well and add to the overall quality of the area, be visually attractive as a result of good architecture, layout and appropriate and effective landscaping, be sympathetic to local character and history, including the surrounding built environment and landscape setting and planning policies and decisions should contribute to and enhance the natural and local environment by, inter alia, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.

- 6.12 The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Emerging Plan.
- 6.13 The submitted plans show that the proposed dwelling will be detached and accessed via Salisbury Road. The proposal is single storey with a hipped roof with the design of the dwelling being in keeping with the character of the area.
- 6.14 Paragraph 8 of the recent appeal decision stated that:
- '...the appeal site forms part of the land currently associated with the existing dwelling at 85 Salisbury Road. It is currently occupied by a detached garage and timber shed with parking to the front and garden to the rear. The proposal seeks to remove these existing outbuilding and to construct a single storey dwelling. The surrounding area is residential in nature with examples of bungalows, chalet bungalows and two storey dwellings within the locality.'*
- 6.15 The Inspector goes on to state, in terms of his judgement on the form and character on the proposed development, at paragraph 9, that:
- '...the proposed bungalow would be situated between the rear of the existing properties along Princes Road and the adjacent dwelling on Salisbury Road with the dwelling being located at least 1 metre from the boundary on both sides. The proposal has been designed to fit within a relatively narrow site. However, it is not considered that the proposed dwelling or the site itself would be overly narrow in appearance and the dwelling would not appear contrived within its setting or out of character within the street scene, where there are a number of narrow bungalows. A sufficient amount of space has been provided either side of the proposed dwelling in accordance with the minimum requirements of Policy HG14 of the Tendring District Local Plan (2007) and it would be set back a good distance from the front boundary of the site which would reduce its overall impact upon the street scene.'*
- 6.16 Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of three or more bedrooms should have a minimum of 100 square metres. The submitted plans demonstrate that the existing and proposed dwelling can both demonstrate that this can be achieved comfortably.
- 6.17 Concluding on character and appearance considerations, the Appeal Inspector stated within paragraph 10 of the appeal decision, that:
- '...the proposal would not harm the character and appearance of the surrounding area. As such, it would not be in conflict with Policy HG14 of the Tendring District Local Plan 2007 which seeks to ensure that new development is appropriate within its setting and does not create a cramped appearance and the design objectives within the NPPF.'*
- 6.18 Accordingly, it is considered that the proposed development would be acceptable in terms of it character and appearance within the street scene, given that this application is unchanged from the one recently determined at appeal.

Impact on Residential Amenity

- 6.19 The NPPF, in paragraph 127 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria,

'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017)'.

6.20 Within paragraph 11 of the recent appeal decision, the Inspector stated that:

'...concerns were raised that the proposed development would have an overbearing impact on the occupiers of the dwelling at 3 Princes Road and would result in a loss of sunlight to the property. The proposed dwelling would be single storey in nature and would have a hipped roof design which would slope away from the boundary with the properties along Princes Road. Furthermore, as the side boundary of the appeal site is also the rear boundary of the neighbouring property at 3 Princes Road, the proposed development would be some distance from the house at No.3. Due to these factors, it is not considered that the proposal would have an overbearing impact on, or result in a significant loss of light to, the occupiers of No.3 and the other properties on Princes Road which would abut the boundary of the appeal site'.

6.21 The Inspector concluded that the proposal:

'...would not harm the living conditions of the occupiers of the neighbouring dwellings and would not be in conflict with Policy HG14 of the Tendring District Local Plan 2007 which seeks to safeguard the amenities and aspect of adjoining residents'.

6.22 Accordingly, the application is considered acceptable with regard to its impact on residential amenities.

Highway Safety/Parking

6.23 Essex Highway Authority have been consulted on this application and do not raise any objections subject to highway related conditions and informatives being imposed to address such matters as access width, no unbound materials, no discharge of surface water, pedestrian visibility splay, single garage measurements, boundary planting, cycle parking and storage of building materials.

6.24 The Council's adopted parking standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. There is sufficient parking to the front of the host dwelling to meet the requirements of Essex County Council Parking Standards of 5.5 metres by 2.9 metres.

Trees and Landscaping

6.25 Policy EN1 of the adopted Local Plan and Policy PPL3 in the emerging Local Plan seek to protect and, wherever possible, enhance the quality of the district's landscape; requiring developments to conserve natural and man-made features that contribute toward local distinctiveness and, where necessary, requiring suitable measures for landscape conservation and enhancement.

6.26 The application site is subject of a Tree Preservation Order (TPO) reference TPO/93/26, which affords protection to a large Beech tree situated to the front of the application site. The plans provided demonstrate that the dwelling will be outside of the Root Protection Zone and therefore the development will not result in an incursion into the Root Protection Area of the Beech and the development will not cause harm to the protected tree.

Legal Obligations

- 6.27 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"*.
- 6.28 There is currently a deficit of –17.68 hectares of equipped play/open space in Holland/Clacton-on-Sea. Any additional development in Holland/Clacton will increase demand on play facilities further. The nearest play area to the application site is located at Hereford Road, Holland on Sea. The area is designated as a Local Equipped Area for Play and provides equipment for children of all ages. This play area already covers a large part of Holland on Sea and it is felt that any further development in this area will impact on the current facilities. Therefore a contribution to improvements at this play area is both relevant and justified for this planning application.
- 6.29 A unilateral undertaking is currently being prepared to secure this legal obligation.

Habitat Regulations Assessment

- 6.30 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.
- 6.31 This residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, being approximately 6.1km away from Essex Estuaries SAC and 7.3 km away from Hamford Water RAMSAR and SPA. In accordance with Natural England's advice there is no requirement to consult them due to the specified mitigation.
- 6.32 A unilateral undertaking has been requested to secure this legal obligation and is currently being prepared. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

7. Conclusion

- 7.1 The previous application for this site (which this application replicates) was subject of an appeal which was dismissed on 13 December 2019. However, the reason for dismissal was purely on a legal technicality in relation to a failure to secure the necessary mitigation for the effect of the proposed development on the European designated habitat sites (RAMS). Whilst a Unilateral Undertaking had been provided to secure the necessary financial contribution it had not been signed and as such it could have no legal effect and could not be taken into account. In all other respects the Planning Inspector was satisfied that the proposed development would have no harm on the character and appearance of the area or the living conditions of the occupiers of the occupants of the neighbouring properties and as such would not be in conflict with adopted Local Plan policies.
- 7.2 Given the above appeal decision - and subject to the applicant entering into a Unilateral Undertaking to secure financial contributions towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) (and Open Space requirements, as explained in the main body of this report) – the application is considered acceptable in terms of scale, layout and appearance and is accordingly recommended for approval.

8. Recommendation

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

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

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 No. 1813-PL01 C

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

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

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

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

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

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

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

6. No development shall take place until a revised Arboricultural Impact Assessment (AIA) has been submitted to and approved in writing by the Local Planning Authority. The revised AIA shall accord with the proposed site plan - and in particular the root protection area - shown on approved drawing 1813-PL01 C. The AIA shall include details of any hard surfacing beneath the canopy of the protected tree and shall be designed to minimise ground compaction in accordance with the recommendations set out in the British Standards Institute publication "BS 5837:2005 Trees in Relation to

Construction". Such areas will require the use of geo-textile membranes coupled with no excavation and minimal alterations to ground levels.

Reason - In the interests of safeguarding the protected tree.

7. No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. wheel and underbody washing facilities

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

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

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

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

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

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

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

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

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

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

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

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

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

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 Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Legal Agreement Informative - Open Space/Play Space Contribution

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

Legal Agreement Informative - Recreational Impact Mitigation

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

Highways Informative

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.

It was noted during the site visit that there was an existing light column close to the existing access and a tree located in the highway verge close to the proposed vehicle access.

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

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

SMO1 ' Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester.

CO4 9YQ.

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

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.