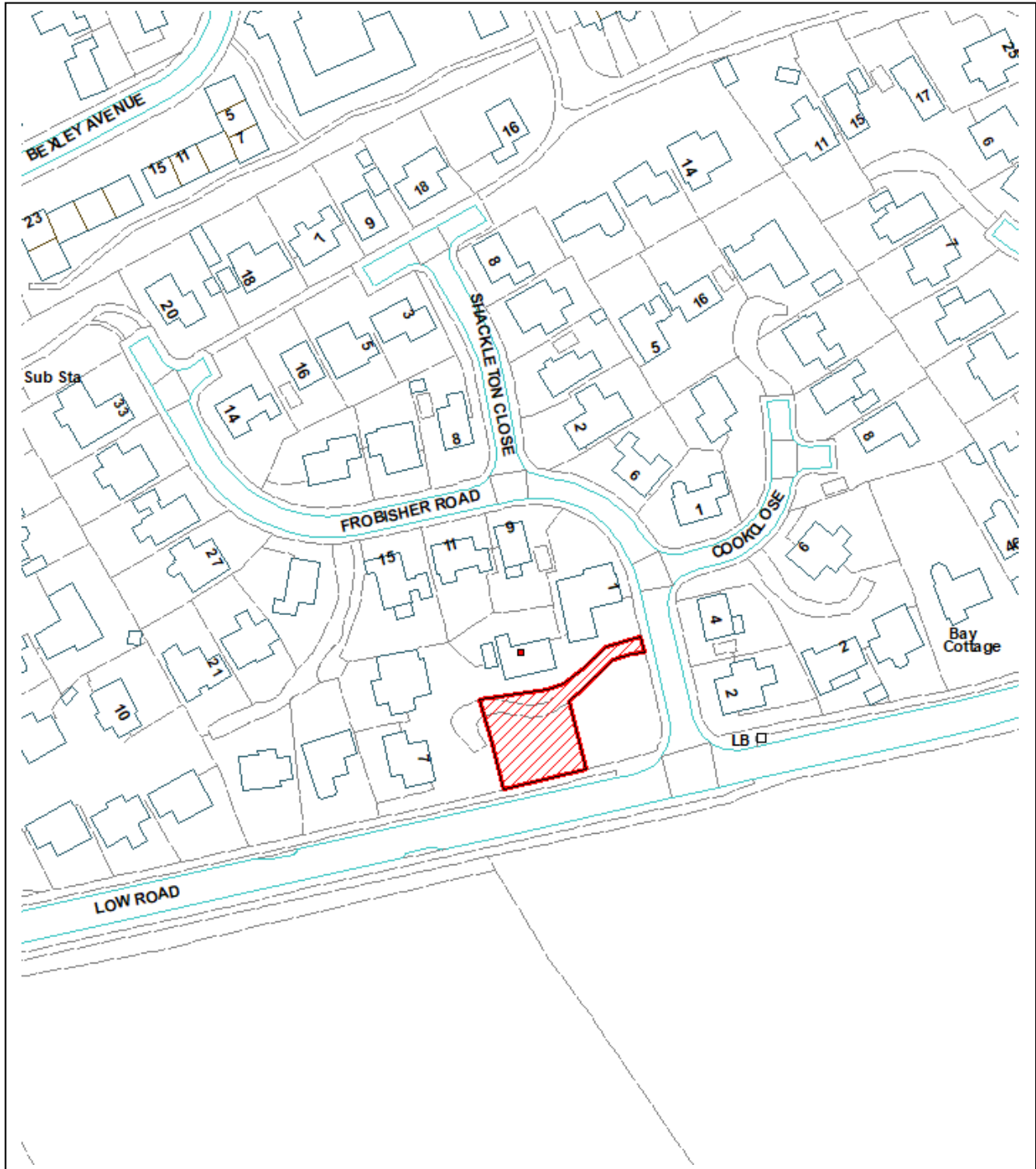


PLANNING COMMITTEE

19 MAY 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.3 PLANNING APPLICATION – 20/00136/FUL – 3 FROBISHER ROAD DOVERCOURT HARWICH CO12 3UF



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Application: 20/00136/FUL

Town / Parish: Harwich Town Council

Applicant: Mr Braybrook - CT Properties

Address: 3 Frobisher Road Dovercourt Harwich CO12 3UF

Development: Proposed erection of new three bedroom detached bungalow and garage to part front garden of 3 Frobisher Road.

1. Executive Summary

- 1.1 The application has been referred to the Planning Committee at the request of Councillor Henderson due to the loss of this open, soft landscaped area resulting in a negative impact on the street scene, due to the poor layout and density of the development and the negative impact on neighbouring amenity that would result.
- 1.2 **This application was deferred at the last meeting of 7th April 2020 application to enable a member site visit to take place or if possible for the applicant to supply adequate video/photographic evidence of the site and surroundings. A video showing a walkover of the site is now available to view thus avoiding the need for a member site visit.**
- 1.3 **The proposed development requires a financial contribution toward play space and recreational disturbance. Since the last meeting, a completed Unilateral Undertaking has now been received securing the required financial contributions.**
- 1.4 The application relates to what is essentially a soft landscaped front garden area associated with number 3 Frobisher Road, Dovercourt. The site is rectangular in shape and extends approximately 0.05 hectares in size. 3 Frobisher Road is one of a small cul-de-sac of four bungalows on the corner with Low Road accessed off Frobisher Road via a private driveway. The application site therefore has a road frontage with Low Road which is enclosed by a mature boundary hedgerow.
- 1.5 The site is located within the Harwich Settlement Development Boundary as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017. The principle of residential development in this location is therefore acceptable subject to detailed design and impact considerations.
- 1.6 The application seeks full planning permission for the erection of a 3 bedroom detached bungalow and detached single garage accessed via the existing private driveway. The proposed bungalow would be orientated to front the private drive with the rear boundary of the plot formed by the hedgerow along Low Road.
- 1.7 The proposal would not result in the loss of an area of public open space or safeguarded green space. The proposed bungalow mimics the scale, design and appearance of the adjacent bungalows and would be mostly screened by the existing boundary hedgerow and trees along Low Road. The density and built form would appear similar to the existing dwellings on the opposite corner of Frobisher Road and Low Road and those within Cook Close. The proposed dwelling is single storey and located a sufficient distance from neighbouring dwelling to not result in a material loss of residential amenities. The new dwelling is served by a private garden area and parking that accords with standards.
- 1.8 The proposed development is in a location supported by Local Plan policies and will not result in any material harm to the character of the area, residential amenities or highway safety.

The application is therefore recommended for approval subject to conditions and the completion of the required legal agreement.

Recommendation: Approval

Subject to the conditions stated in section 8.2.

A legal agreement has been completed to account for contributions towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and toward improvements at the play area at Dovercourt Pool Play.

2. Planning Policy

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

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG9 Private Amenity Space

HG14 Side Isolation

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

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

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

- LP3 Housing Density and Standards
- LP4 Housing Layout
- CP1 Sustainable Transport and Accessibility
- PPL4 Biodiversity and Geodiversity
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply

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). 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, whilst housing delivery over the last three years has exceeded requirements, the supply of deliverable housing sites going forward that the Council can demonstrate still 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

TEN/1508/75/OUT	Residential Development	Approved	26.05.76
TEN/01209/85/DETAIL	Construction of 50 dwellings with associated garages, roads, sewers etc.	Approved	17.12.85

4. Consultations

ECC Highways Dept
09.03.2020

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

**ORIGINAL
COMMENTS**

The proposal is at the end of a private road and retains adequate room and provision for off street parking and turning, for the proposed dwelling therefore:

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

1. Prior to the occupation of the proposed dwelling, the existing private drive shall be widened to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary at its junction with Frobisher Road and provided with an appropriate dropped kerb crossing of the footway/verge.

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.

2. There shall be no discharge of surface water onto the Highway from the private drive.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1

3. Prior to the occupation of the proposed dwelling, the existing private drive shall be planed and resurfaced for its entire length once the building works and the proposed modified road has been completed.

Reason: To avoid displacement of loose material onto the highway and to rectify any defects during the construction phase in the interests of highway safety in accordance with policy DM1.

4. Any new boundary planting shall be planted a minimum of 1 metre back from the private road 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.

5. 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.

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

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8

7. 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.

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

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

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

Informative 1: Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, together with an adequate parking area for those employed in developing the site.

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.

3: 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.

ECC Highways Dept
23.03.2020
**AMENDED
COMMENTS**

The information that was submitted in association with the application has been fully considered by the Highway Authority. Following additional comments received from the applicant and clarification on the responsibilities associated with the private access road it has been necessary to amend my previous comments, in light of one additional bungalow being proposed there remains adequate room and provision for off street parking and turning, for the proposed dwelling therefore:

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

1. There shall be no discharge of surface water onto the Highway from the private drive.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1

2. Prior to the occupation of the proposed dwelling, the existing private drive shall be re-instated to a suitable standard for its entirety once the building works and the proposed modified road has been completed.

Reason: To avoid displacement of loose material onto the highway and to rectify any defects during the construction phase in the interests of highway safety in accordance with policy DM1.

3. Any new boundary planting shall be planted a minimum of 1 metre back from the private road 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.

5. 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.

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

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8

7. 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.

8. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan 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 and 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: 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.

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

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

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

5. Representations

- 5.1 Harwich Town Council objects to this application on the grounds that the proposed development is on land that is designated as open space and used for soft landscaping (officer response in italics).

The site is not designated or safeguarded open space and simply forms part of the front garden associated with number 3 Frobisher Road. The soft landscaping and hedgerow are not protected under planning legislation and could be removed at any time. However, the hedgerow is to be retained (forming the rear private amenity boundary of the proposed dwelling) and its retention will be secured by condition.

Harwich Town Council reiterated their objections received via email on 6th April 2020. These were addressed within the Decision Report by the Assistant Director of Planning.

- 5.2 4 individual letters of representation have been received. The concerns raised can be summarised and addressed as follows;

- Harmful to the character of the cul-de-sac.
- Set a precedent for further development of front gardens.
- Loss of pleasant landscaped front garden area.
- Harm to wildlife.
- Will encroach on our property and garden.
- Loss of outlook.
- Loss of light.
- Private drive only wide enough for one car.
- Access and site not suitable for construction vehicles.
- Noise and disturbance from building.
- Private driveway in poor state of repair and cannot cope with more traffic.

The concerns raised by neighbouring residents are addressed within the relevant section of the main report below.

No additional letters of representation has been received since the previous meeting of 7th April 2020.

6. Assessment

- 6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Principle of Development;
- Layout, Scale and Appearance;
- Access and Parking;
- Residential Amenities;
- Trees, Landscaping and Wildlife;
- Legal Obligations - Recreational Impact Mitigation; and,
- Legal Obligations - Open Space/Play Space Contribution.

Site Context

- 6.2 The application relates to what is essentially a soft landscaped front garden area associated with number 3 Frobisher Road, Dovercourt. The site is rectangular in shape and extends approximately 0.05 hectares in size.

- 6.3 3 Frobisher Road is one of a small cul-de-sac of four bungalows on the corner with Low Road accessed off Frobisher Road via a private driveway. The application site therefore has a road frontage with Low Road which is enclosed by a mature boundary hedgerow.
- 6.4 The site is located within the Harwich Settlement Development Boundary as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Proposal

- 6.5 The application seeks full planning permission for the erection of a 3 bedroom detached bungalow and detached single garage accessed via the existing private driveway.
- 6.6 The proposed bungalow would be orientated to front the private drive being sited directly opposite number 3 with the rear boundary of the plot formed by the existing hedgerow along Low Road.
- 6.7 The facing brickwork and roof tiles to be used in the construction of the development are to match the materials of the existing neighbouring bungalows.

Principle of Development

- 6.8 The site lies within the Settlement Boundary for Harwich, as defined within both the adopted Tendring District Local Plan (2007) and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.9 Saved Policy HG3 of the adopted Tendring District Local Plan (2007) deals with residential development within defined settlements stating that, residential development will be permitted provided it satisfies amenity, design, density, environmental and highway safety as appropriate, and can take place without material harm to the character of the local area. Emerging Policy SPL2 states that within the settlement development boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local plan policies.
- 6.10 The original approval for the development as a whole (detailed in section 3. Relevant Planning History above) shows the site area as amenity land intended to serve the development. However, the retention of this space was not secured by way of planning condition and the site has since been encompassed into private land within the ownership of number 3 Frobisher Road. Therefore, the proposal would not result in the loss of an area of public open space or safeguarded green space.
- 6.11 The principle of residential development on this site is therefore acceptable subject to the detailed design and impact considerations set out below.

Layout, Scale and Appearance

- 6.12 Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment including making effective use of land. Paragraph 127 of the NPPF states that developments should function well, should add to the overall quality of the area, are visually attractive as a result of good architecture and layout and are sympathetic to local character.

- 6.13 Saved Policies QL9, QL10 and QL11 of the adopted Tendring District Local Plan (2007) 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. Furthermore, saved Policy HG14 requires a minimum of 1 metre side isolation between dwellings.
- 6.14 As stated above, the development does not result in the loss of public open space or protected green space. The landscaped area on the corner of Frobisher Road and Low Road would be retained together with the entire boundary vegetation with Low Road screening the development. The proposal includes new hedgerow planting to its plot boundaries further softening and minimising the visual impact of the development within the street scene of both Frobisher Road and Low Road.
- 6.15 The resultant density and built form would appear similar to the existing dwellings on the opposite corner of Frobisher Road and Low Road and those behind within Cook Close. The proposed bungalow would be orientated north fronting the private drive with its rear aspect addressing Low Road. The rear boundary of the plot would be formed by the existing hedgerow along Low Road. Many other examples of where the rear garden boundary of dwellings is formed by the existing high brick walls or hedgerows on the back edge of the footway along Long Road can be seen at Cook Close, Keynes Way and Whinfield Avenue. 1 metre or more is retained to all boundaries and the development could not be considered cramped or out of character.
- 6.16 There can be no objection to the erection of a detached bungalow having regard to the prevailing character of dwellings in the immediate locality. The proposed bungalow mimics the scale, design and appearance of the adjacent bungalows within the cul-de-sac and would be finished in matching materials.
- 6.17 Overall, the design, appearance and visual impact is considered acceptable and the proposed dwelling will not appear out of keeping or harmful to the immediate character of the cul-de-sac or wider character Frobisher Drive.

Residential Amenities

- 6.18 Paragraph 127 of the NPPF states that planning should always seek to secure a good standard of amenity for all existing and future occupants. 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. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) supports these objectives supports these objectives.
- 6.19 The proposed dwelling is sited opposite the donor property, number 3 Frobisher Drive. The introduction of a dwelling in this location would result in a similar relationship with number 7 as the existing relationship between numbers 3 and 5. Approximately 12 metres from the new side boundary of the proposed dwelling to the front elevation of number 7 would be retained. The impact upon sunlight, daylight and outlook could not be considered materially harmful. Furthermore, the side boundary of the new property is to be enclosed by new hedgerow planting softening the impact of the development and views from neighbouring windows.
- 6.20 Overall, the juxtaposition between dwellings means that no material loss of outlook, sunlight/daylight or privacy to the occupiers of the neighbouring dwellings will result from the development.

- 6.21 The site is located adjacent to Low Road and its associated traffic. Any noise and disturbance from the additional traffic movements associated with one dwelling cannot be considered excessive or harmful in this context.
- 6.22 The dwelling is served by a private garden area that accords with the minimum standards as set out within saved Policy HG9 of the adopted Tendring District Local Plan (2007).

Access and Parking

- 6.23 Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 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.
- 6.25 The proposed dwelling would be served by the existing access and shared private driveway which is considered sufficient and practical for the existing 4 dwellings it serves. The additional traffic movements associated with one dwelling cannot be considered excessive and the use of the existing access and private driveway would not result in any material harm to highway or pedestrian safety.
- 6.26 The proposed dwelling would be served by a single garage and parking space to the front meeting the afore-mentioned parking standards.
- 6.27 Essex County Council Highway Authority raises no objection to the development subject to conditions which form part of this recommendation where necessary.
- 6.28 Objections have been raised over the suitability of the narrow, poorly surfaced private driveway to serve the development and disturbance and obstruction during construction. For the reasons set out above and in the absence of any objection from The Highway Authority there can be no objection to the development on highway grounds. The recommendation includes conditions to secure new surfacing. Disturbance during construction is an inevitable and short term impact of the development process and cannot constitute a reason for refusal. However, a condition securing the submission and approval of a Construction Method Statement (controlling construction times and deliveries) will minimise and mitigate the impacts on neighbouring properties.

Trees, Landscaping and Wildlife

- 6.29 Saved Policy EN1 of the adopted Local Plan (2007) relates to landscape character and states that development management will seek to conserve features which contribute to local distinctiveness, which includes important hedgerows and trees.
- 6.30 The application site is set to grass and contains several mature ornamental shrubs and grasses comprising Viburnum, Hebe and Cortaderia. The boundary of the site with the highway is demarcated by an established hedge consisting of Euonymus and Viburnum with self-sown brambles gradually encroaching into the hedge.

- 6.31 There are no trees on the application site and none of the existing vegetation merits retention or falls within the scope of legislation under which it could be afforded formal legal protection.
- 6.32 A condition is considered necessary to secure details of hard and soft landscaping to enhance the appearance of the development of which the retention of the boundary hedge will be a key element. The details shown on the plan are insufficient and a full landscaping scheme is required.
- 6.33 Objections have been raised in relation to the disturbance to wildlife. A condition controlling the timing of any clearance of vegetation to minimise the impact upon wildlife and nesting birds forms part of this recommendation.

Legal Obligations - Recreational Impact Mitigation

- 6.34 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.
- 6.35 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.
- 6.36 The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 635 metres from Hamford Water SAC, SPA and Ramsar. New housing development within the Zoi would be likely to increase the number of recreational visitors to Hamford Water and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.37 A unilateral undertaking is required to secure the financial contribution required to mitigate against any recreational impact from the new dwellings and to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.
- 6.38 A competed unilateral undertaking has been received thus securing the required financial obligation.

Legal Obligations - Open Space/Play Space Contribution

- 6.39 Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built". These sentiments are carried forward within emerging Policy HP5.
- 6.40 There is currently a deficit of 12.59 hectares of equipped play in Harwich and Dovercourt. The closest play area to the development is located at Dovercourt Pool approximately 0.5 miles away this play area is classified as a LEAP and is a well-used facility.
- 6.41 Due to the significant lack of play facilities in the area, a contribution towards play is justified and relevant to the planning application, to cope with any additional development in the area.

The play area closest to the development is in need of updating. Any contribution would be used to make improvements at the play area at Dovercourt Pool Play.

6.42 A competed unilateral undertaking has been received thus securing the required financial obligation.

7. **Conclusion**

7.1 The principle of residential development in this locality is supported by Local Plan policy. The proposal does not amount to any visual harm, harm to residential amenities nor harm to highway safety that would warrant refusal of planning permission. The application is therefore recommended for approval.

8. **Recommendation**

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions, informatives and completed Section 106 Legal Agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS.	£122.30 per dwelling
Financial contribution towards open space and play space.	To fund improvements at the play area at Dovercourt Pool Play.

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 plan: Drawing Number 19/11/0050 Revisions A.

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

3) No above ground works shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include for; the retention of the existing southern boundary vegetation; all boundary treatments and 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 soften and enhance the development in the interests of visual amenity.

4) 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 within the retained or new planting 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 - In the interest of visual amenity and the character of the area.

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

Reason - In the interests of visual amenity.

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

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

- 7) Prior to occupation of the development the vehicular parking and garage as shown the approved plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason - To ensure that sufficient off-street parking is provided and retained, in the interest of highway safety.

- 8) Notwithstanding the provisions of Schedule 2 Part 1 Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no extensions, additions, porches or alterations to the dwellings or their roofs shall be carried out and no outbuildings, enclosures, swimming or other pools shall be erected except in complete accordance with details which shall previously have been approved, in writing, by the Local Planning Authority following the submission of a planning application for such development.

Reason - To ensure that sufficient private amenity space for the dwelling is retained and in the interests of residential amenities and visual amenity.

- 9) All new driveways and parking areas shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellings.

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

- 10) Prior to the commencement of development, a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. The Construction Method Statement shall provide for:

- safe access to/from the site;

- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- wheel washing facilities;
- measures to control the emission of dust and dirt during demolition and construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- details of hours of deliveries relating to the demolition and construction of the development;
- details of hours of site clearance or construction;
- a scheme to control noise and vibration during the demolition and construction phase, including details of any piling operations.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason - In the interests of residential amenity and highway safety.

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

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

- 12) There shall be no discharge of surface water onto the Highway from the private drive.

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.

- 13) Prior to the occupation of the proposed dwelling, the existing private drive shall be reinstated to a suitable standard for its entirety once the building works and the proposed modified road has been completed.

Reason - To avoid displacement of loose material onto the highway and to rectify any defects during the construction phase in the interests of highway safety.

- 14) Any new boundary planting shall be planted a minimum of 1 metre back from the private road 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.

- 15) The vehicular parking space shall have minimum dimension 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.

- 16) The single garage 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.

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 - Recreational Impact Mitigation

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

Legal Agreement Informative - Open Space/Play Space Contribution

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

Highways Informatives

1: 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.

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

The applicants should be advised to contact the Development Management Team by email at: development.management@essexhighways.org 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 (including the video walkover of the site mentioned above) 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/>.