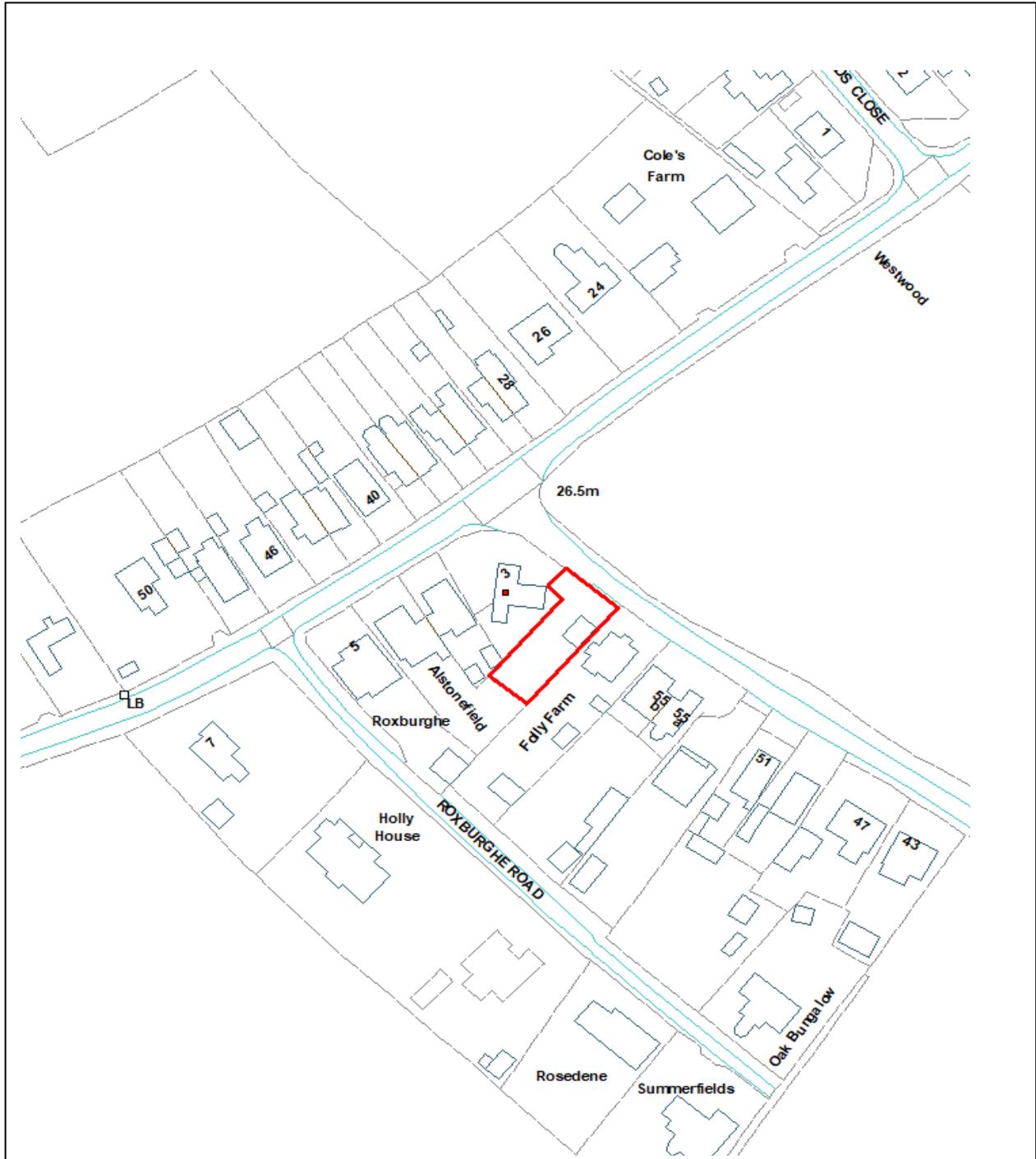


PLANNING COMMITTEE

02 SEPTEMBER 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.2 PLANNING APPLICATION – 20/00525/FUL – LAND ADJACENT 3 BENTLEY ROAD
WEELEY CLACTON ON SEA CO16 9DT**



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Application: 20/00525/FUL

Town / Parish: Weeley Parish Council

Applicant: PSCS Ltd

Address: Land adjacent 3 Bentley Road Weeley Clacton On Sea CO16 9DT

Development: Proposed 3 bed bungalow with associated parking.

1. Executive Summary

- 1.1 The application has been referred to the Planning Committee at the request of Councillor Harris due to the proposal representing backland development; overdevelopment of what is a very narrow site; not meeting policy regarding size criteria; inadequate parking for the proposed dwelling and 3 Bentley Road; dangerous access to the road with poor visibility and limited room to manoeuvre; and not having the support of Weeley Parish Council.
- 1.2 The application site is formed from part of the rear garden of 3 Bentley Road, Weeley Heath. 3 Bentley Road is at a corner of the junction of Bentley Road with Mill Lane. The site would have a frontage to Mill Lane.
- 1.3 The site is located within a Development Boundary for Weeley Heath 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.
- 1.4 The application seeks full planning permission for the erection of a three-bedroom detached bungalow with integral single garage and vehicular access onto Mill Lane for parking provision for the proposed bungalow and for two parking spaces for the existing property from which the site would be formed.
- 1.5 The proposed bungalow would be of a scale and form appropriate to its setting. The bungalow would not result in a material loss of residential amenities. The bungalow would have a private garden and parking in accordance with relevant standards.
- 1.6 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 in conjunction with a completed legal agreement.

Recommendation: Approval

Subject to the conditions stated in section 8.2.

A legal agreement has been completed to account for a contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). No contribution is required for open space provision.

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

NPPG National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

RA4 Housing Development Within Defined Villages

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

COM6 Provision of Recreational Open Space for New Residential Development

COM19 Contaminated Land

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN12 Design and Access Statements

EN13 Sustainable Drainage Systems

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SP2 Spatial Strategy for North Essex

SP3 Meeting Housing Needs

SP6 Place Shaping Principles

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP1 Housing Supply
- LP3 Housing Density and Standards
- PPL4 Biodiversity and Geodiversity
- LPG 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, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities 'Garden Communities' proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.
- 2.4 The three North Essex Authorities are currently considering the Inspector's advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.
- 2.5 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. 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.
- 2.6 In relation to housing supply:

- 2.7 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.
- 2.8 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 (which applies until such time that the figures in the new Local Plan are adopted).
- 2.9 In addition, the actual need for housing (as set out in the emerging Local Plan) 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, as recently endorsed by the Local Plan Inspector. Therefore, in weighing the benefits of residential development against the harm, the Inspector's endorsement of the lower housing requirement figure is a strong material consideration which tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing to address the perceived shortfall – given that, against the Local Plan housing requirement there is, in fact, a surplus of supply as opposed to a shortfall.

3. Relevant Planning History

05/00460/FUL	Retention of shed/shelter and pen for housing of 2 pygmy goats.	Approved	24.05.2005
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4. Consultations

UU Open Spaces	No contribution is being requested from Open Spaces on this occasion.
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Environmental Protection	1.Contaminated Land – Prior to the commencement of the development proposals, investigations shall be carried out to establish whether the site is contaminated in any way. Such investigations shall be carried out in accordance with a scheme which shall first be agreed in writing with the Local Planning Authority. If the investigations reveal contamination of the site, a further scheme shall be agreed in writing by the Local Planning Authority, setting out measures to ensure that the entire area of the site, in relation to soil conditions resulting from such contamination, will not be harmful or detrimental to human health, animal health, normal plant health or growth, to buildings, building surfaces or amenities. Such agreed measures shall be implemented and completed to the satisfaction of the Local Planning Authority prior to the commencement of any development of the site.
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We would also like it noted, should the application be approved,

our recommended site working hours for the development, so as to ensure minimal noise disturbance is experienced by the very nearby residential premises throughout the duration of the development. This is to include the times for arrival on site and the times associated with deliveries of materials etc.

**ECC Highways Dept
Original comments**

Please note a site visit was not been undertaken due to the current COVID-19 restrictions; however, I am familiar with this area in the District and the observations below are based on submitted material, google earth image dated April 2009.

In principle the Highway Authority does not object to the proposal but has some concerns in relation to the parking arrangements and access points onto the highway from the host dwelling, they are:

As far as can be determined from the submitted plans there does not appear to be any details on the visibility splays for the new vehicle access/ parking for the host dwelling. There appears to be an established hedge and tree that forms the existing boundary feature.

Due to the height of the hedge and lack of highway verge there is a potential to inconvenience or cause a hazard to pedestrians or vehicles who may be using Mill Lane as vehicles either reverse or exit out in forward gear, which would result in an unacceptable degree of hazard for both emerging and approaching vehicles and to other highway users to the detriment of highway safety.

It is also noted that the internal dimensions of the proposed garage appear to be too narrow and short; as a result, the application has not demonstrated what Cycle parking shall be provided in accordance with the EPOA Parking Standards for the application.

The proposal is therefore contrary to policies DM1 and DM8 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Note:

For the Highway Authority to determine this application it would be required to provide the following information:

i) The proposed vehicle access and new vehicle access for the host dwelling does not show on the information provided any visibility splay details. We would like to see no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway for the host dwelling. To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety in accordance with policy DM1.

ii) The internal measurements for the proposed garage shows dimensions of 5.5m x 2.55m; all single garages should have a minimum internal measurement of 7m x 3m 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 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

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

The Highway Authority reserves making a recommendation until such time as the above information has been provided and assessed.

Please note a site visit was not been undertaken due to the current COVID-19 restrictions; however, I am familiar with this area in the District and the observations below are based on submitted material, additional comments received on 27 May confirming the tree and hedgerow were removed immediately prior to the application being submitted, the former being diseased and inexpertly pollarded. and google earth image dated April 2009. The proposal is located within an existing 30-mph speed limit and is providing adequate off-road parking for the host and proposed dwelling.

ECC Highways Dept
21.07.2020
**AMENDED
COMMENTS**

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

1. There should be no obstruction above ground level within a 2.4m wide parallel band visibility splay for the proposed and existing dwelling as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

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

2. 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 in accordance with policy DM1.

3. Prior to occupation of the new dwelling the vehicular access for the host dwelling 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 to 5 low kerbs), 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 highway verge. Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.

4. 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 to ensure accordance with policy DM1.

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 and in accordance with Policy DM1.

6. The proposed dwelling shall not be occupied until such time as a domestic car parking for a minimum of two vehicles has been provided for the host and proposed dwellings with 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.

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

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

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

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

SMO1 - Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester

CO4 9YQ

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

5. Representations

- 5.1 Weeley Parish Council objects to this application for the following reasons: this proposal represents backland development and overdevelopment of what is a very narrow site. The proposed 'garage' does not meet the size criterion for a garage. The suggested parking arrangements for this proposed new dwelling and for the existing property at 3, Bentley Road are inadequate and the access on to the road (Mill Lane rather than Bentley Road) is dangerous with poor visibility and limited room for manoeuvre.
- 5.2 A written representation has been received from the occupier of a neighbouring property objecting to the application on the grounds of not receiving notice of an outline application for this proposed development, small size of site, proximity to the corner of Mill Lane, designation of Mill Lane as a quiet lane, parking of vehicles in that area, loss of parking provision to 3 Bentley Road will lose its own parking area, a fence has already been put up, as a Smaller Rural Settlement there has already been over development on Weeley Heath, and being unable to enjoy quiet enjoyment of property over the last 4 to 5 years because of constant building and vehicle noise.

6. Assessment

- 6.1 The main planning considerations are:
- Principle of Development;
 - Appearance of design, including scale and layout, general visual amenity;
 - Impact to neighbours;
 - Whether the proposal would provide adequate residential amenity to future occupiers;
 - Vehicular access and parking;
 - Legal Obligation – Recreational Impact Mitigation; and,
 - Legal Obligation – Open Space/Play Space Contribution.

Site Description and Context

- 6.2 The site is part of the rear garden of a bungalow at 3 Bentley Road. The host dwelling is a corner property and so the rear garden has a frontage to the highway of Mill Lane. There is an outbuilding on the site of the scale of a double garage. In front of the outbuilding is room to park two cars.
- 6.3 The context of the site is the edge of a cluster of dwellings, predominately bungalows. The site is some 330m southwest of the junction of Bentley Road with Clacton Road, part of the B1441. To the northwest of the site is the host property, 3 Bentley Road. To the northeast, on the opposite side of Mill Lane, is an agricultural field. To the southeast is a detached dwelling appearing from the front elevation to be of a single storey below a gambrel roof. To the southwest, to the rear of the site, is a residential rear garden.

Proposal

- 6.4 The proposal is for the erection of a detached three-bedroom bungalow with associated car parking. The car parking would have a vehicular access onto Mill Lane. The associated car parking would consist of two car parking spaces, side by side, for the proposed bungalows and two car parking spaces, side by side, for the existing bungalow of 3 Bentley Road. The existing outbuilding on the site would be demolished.
- 6.5 The proposed bungalow would have an integral single garage in addition to the two car parking spaces set in front of the bungalow.
- 6.6 The bungalow would have an integral garage set on the left-hand side when viewed from the road, a gable fronted bay to the right-hand side and an entrance door set between. The main roof of the bungalow would have a hipped form. External walls would be of red brickwork and the roof would be of concrete tiles.
- 6.7 The bungalow would be 8m wide, leaving a gap of 1m from each side boundary, and have a maximum depth of 18.1m. The bungalow would have a maximum height to the front to rear ridge of the hip roof of 5m. The bungalow would have a height to the eaves of 2.2m.

Principle of Development

- 6.8 The site lies within a Settlement Boundary for Weeley Heath as defined in the adopted Tendring District Local Plan (2007) and within a Settlement Development Boundary as defined in the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). Weeley Heath is an "Other Defined Village".
- 6.9 Policy QL1 states that, whilst most new development will be concentrated at the larger urban areas, development will also be concentrated within other defined settlement development boundaries, one of which is the village of Weeley Heath. The proposal is therefore acceptable with regard to Policy QL1.
- 6.10 Policy QL2 states that all new development proposals should be located and designed to avoid reliance on the use of the private car and promote travel choice. The site is a walk of some 330m to Clacton Road which has a bus route to Clacton-on-Sea and other destinations. Weeley railway station is some 1km to the north. Shops and other services of Weeley are a short distance further to the north of the railway station. Realistic alternatives to accessing services other than by using a car would be available to occupiers of the proposed dwelling and accordingly the proposal is acceptable with regard to Policy QL2.
- 6.11 Policy RA4 states that within the Settlement Development Boundaries of Defined Villages, housing development will take the form of infilling (1-3 houses) in the "Other Defined Villages" such as Weeley Heath. The proposal accords with Policy RA4.
- 6.12 The site, being formed from curtilage of an existing property, would make more effective use of brownfield land. As such the proposal is in accordance with guidance in the NPPF and accords with Policy HG1 in that housing provision would be on previously developed land.
- 6.13 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 SPL 2 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.

Appearance of design, including scale and layout, general visual amenity

- 6.14 Policy QL9 requires all new development to make a positive contribution to the quality of the local environment and protect or enhance local character. The dwelling would appear as a relatively modest bungalow when seen in the streetscene. The front hip of the roof could be mistaken for a pyramidal roof of a typical inter-war period bungalow. Although the dwelling would have a significant depth, the rearward projection of the built form would not be apparent in the streetscene and the appearance of the proposed dwelling would be in character with the majority of dwellings in the locality. The shallow front bay and the garage door of the integral garage would break up the front elevation and give some visual interest. The proposal is considered acceptable with regard to Policy QL9.
- 6.15 The proposal would fit the pattern of existing neighbouring housing and the proposal achieves effective use of land at an appropriate density without over filling the site. The character of the area is largely formed by bungalows on relatively narrow plots coming close to side boundaries. The proposal is considered acceptable with regard to Policy HG7.
- 6.16 A side isolation space of 1m would be retained between the bungalow and its side boundaries. The proposal would accord with Policy HG14.
- 6.17 Objections relate to this proposal representing backland development however this is not the case. The preamble to Saved Policy HG13 Backland Residential Development states: "Backland" developments are, for the purposes of the Policy, defined as the proposed erection of one or more dwelling houses on a parcel of land:
- which lies generally behind the line of existing frontage development;
 - has little or no frontage to a public highway; and
 - which would constitute piecemeal development in that it does not form part of a large area allocated for development.
- 6.18 The proposal is in the rear garden of a dwelling fronting Bentley Road however as that property is on a corner plot the proposed bungalow entirely fronts Mill Lane, in keeping with the existing frontage development on Mill Lane and is not therefore backland development so Saved Policy HG13 is not relevant to consideration of this application.
- 6.19 The host dwelling would retain a private amenity area of some 440 sq m, some 120 sq m to the rear of the bungalow and the remainder to the side and the front. However, the areas to the side and to the front are also private in nature due to screen hedging along the boundary of the property with highways.
- 6.20 Vehicular access would be onto Mill Lane next to an existing vehicular access of the dwelling to the south, Folly Farm. There would be no material disturbance or loss of privacy to the occupiers of Folly Farm or any other residential property. The proposed dwelling would have effectively all the space between its front elevation and the highway taken up by the two side by side parking spaces; the dwelling would not have a front garden as such but rather a parking area. Next to the two parking spaces for the proposed dwelling would be two parking spaces for the existing dwelling. In terms of visual amenity this arrangement would not be ideal, however such arrangements are relatively common and would not result in material visual harm justifying refusal of planning permission.

Impact to neighbours

- 6.21 Policies QL10 and QL11 are concerned with such matters as ensuring adequate daylight, outlook and privacy and of not having a materially damaging impact on other amenities of neighbours of nearby properties. The nearest neighbour, Folly Farm, is orientated to the southeast and appears to have its principal windows to the front and rear elevations. There would be no material loss of daylight to the occupiers of Folly Farm. Folly Farm has three first-floor windows facing the site but there would be an isolation space of some 3m

between these windows and the proposed built form. Accordingly there would be no material loss of outlook to the windows concerned. Due to the single storey nature of the proposed dwelling there would be no material loss of privacy. However, to ensure that this remained the case, a condition to require that any dormer or roof light window would require a planning application to be made would be reasonable and necessary. The proposal is considered acceptable with regard to impact to the neighbouring property at Folly Farm and all other neighbouring properties. The proposal is acceptable with regard to Policies QL10 and QL11.

- 6.22 The occupier of a neighbouring property to the rear of the site has raised a number of points of objection. In response to these points: it was not necessary to make an outline planning application; the highway authority was consulted and would have taken proximity to a junction into consideration; the designation of Mill Lane as a quiet lane has no planning implication with regard to adopted planning policy; parking is adequate and the proposal does indeed include parking provision for 3 Bentley Lane. Other matters are not planning matters in relation to this current application.

Whether the proposal would provide adequate residential amenity to future occupiers

- 6.23 Policy QL10 requires all new development to meet functional requirements. Buildings should be orientated to ensure adequate daylight, outlook and privacy.
- 6.24 Two of the bedrooms would be positioned with a window on the side elevation. These windows would look onto a 1m gap from a side boundary. Given that bedrooms are not normally occupied during the day, this arrangement is considered adequate. The main accommodation of habitable space; a kitchen, dining and living area in an open plan arrangement; would be at the rear of the bungalow and have access by full-height glazed doors to the rear garden.
- 6.25 The proposal would meet Policy HG9 in that a private amenity space of 101 sq m would be provided to the rear of the bungalow.

Vehicular access and parking

- 6.26 The local highway authority has confirmed in writing that it has no objection in principle to the proposal. The concerns of the local highway authority have been put to the agent who has responded that the tree and hedgerow were removed immediately prior to the application being submitted, the former being diseased and inexpertly pollarded in the past. The latest response from the local highway authority is that from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to conditions.
- 6.27 The agent has pointed out that the access already exists and is in use. It has been confirmed in an email from the agent that there is no problem with a 2.4m parallel band across the site. The garage does not need to be of the required width as two other parking spaces are provided for each dwelling.
- 6.28 In the absence of any formal objection from the local highway authority, the proposal is acceptable with regard to Policy TR1a.
- 6.29 The proposed three-bedroomed bungalow would be provided with two car parking spaces and in addition an integral garage. The proposal would meet an adopted parking standard and accordingly is acceptable with regard to Policy TR7.

Legal Obligation – Recreational Impact Mitigation

- 6.30 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.
- 6.31 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.
- 6.32 The application scheme proposes a new dwelling on a site that lies within a Zone of Influence (ZoI) being approximately 4.5km from the Colne Estuary RAMSAR and approximately 5.3km from Hamford Water RAMSAR. New housing development within the ZoI would be likely to increase the number of recreational visitors to the Colne Estuary and to Hamford Water and in combination with other developments it is likely that the proposal would have significant effects on the designated sites. Mitigation measures must therefore be secured prior to occupation.
- 6.33 A unilateral undertaking is required to secure the financial contribution required to mitigate against any recreational impact from the new dwelling 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 PPL 4 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.
- 6.34 A unilateral undertaking to secure the required financial obligation has been completed.

Legal Obligation – Open Space/Play Space Contribution

- 6.35 Policy COM6 in 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 HP 5.
- 6.36 However, no contribution is being requested from Open Spaces on this occasion.

7. Conclusion

- 7.1 The proposal would have no material harm to residential amenity or highway safety. The principle of residential development in this locality is supported by Local Plan policy. Design of the built form is acceptable and the impact of the proposal on the appearance of its setting would not be so adverse as to warrant refusal. 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 and informatives and the completed section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS.	

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 and document: Site location plan; Drawing SBR-01 revision B; and, Planning Statement.

Reason – For the avoidance of doubt and in the interest of proper planning.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 1, Classes B or C, no dormer, roof light or window shall be installed in the roof of the hereby approved bungalow except in complete accordance with details which shall have been approved, in writing, by the local planning authority following the submission of a planning application for such development.

Reason – In the interest of the residential amenity of occupiers of neighbouring dwellings, in accordance with Policy QL11 of the adopted Local Plan and Policy SPL 3, Part C, a.

4. Prior to first occupation of the dwelling hereby approved two off street parking spaces shall be provided at the property and two off street parking spaces provided for 3 Bentley Road, as shown on the block plan to approved drawing SBR-01 revision B, and retained thereafter for vehicle parking.

Reason - To ensure adequate off street parking is provided in the interests of highway safety.

5. Prior to first occupation of the development, the new vehicle accesses shall be provided and retained thereafter with no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway..

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

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

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

7. No gate or other barrier shall be erected at the vehicular accesses.

Reason - To ensure that vehicles using the accesses do not stand on the highway when a gate is being opened/closed, in the interests of highway safety.

8. Prior to the commencement of the development proposals, investigations shall be carried out to establish whether the site is contaminated in any way. Such investigations shall be carried out in accordance with a scheme which shall first be agreed in writing with the Local Planning Authority. If the investigations reveal contamination of the site, a further scheme shall be agreed in writing by the Local Planning Authority, setting out measures to ensure that the entire area of the site, in relation to soil conditions resulting from such

contamination, will not be harmful or detrimental to human health, animal health, normal plant health or growth, to buildings, building surfaces or amenities. Such agreed measures shall be implemented and completed to the satisfaction of the Local Planning Authority prior to the commencement of any development of the site.

Reason – There is a registered piece of contaminated land on the site. This contamination is to be identified and addressed in accordance with Policy COM19 of the adopted Local Plan and the provisions of the NPPF especially at paragraph 178.

9. 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:
- 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 and to reduce the likelihood of complaints of statutory nuisance.

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

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:

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

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

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

3. The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

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/>.