



**Application:** 20/00473/OUT

**Town / Parish:** Brightlingsea Town Council

**Applicant:** Tendring District Council

**Address:** Land adjacent 25 Dover Road, Brightlingsea, CO7 0PS

**Development:** Outline permission for 1 detached dwelling (all matters reserved).

## 1. **Executive Summary**

- 1.1 This application is before Members as the application is being made by Tendring District Council.
- 1.2 The application relates to a parcel of land approximately 0.03 hectares in size located to the land adjacent to number 25 Dover Road, Brightlingsea.
- 1.3 The application seeks outline planning permission with all matters reserved for the erection of 1 detached dwelling.
- 1.4 On the 18th January 2019 it was corporately agreed by the Portfolio Holder for Finance and Corporate Resources to initiate the process to dispose of the land and to explore the opportunity to develop the land asset for 1 dwelling in order to support local housing provision. This disposal is part of the Council's land rationalisation project.
- 1.5 The site lies within the Brightlingsea 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. As such the principle of siting 1 dwelling on this land is acceptable subject to the detailed considerations.
- 1.6 The site is not safeguarded open space within either the adopted or emerging Local Plans and is surrounded by existing housing; the site has limited visual amenity value being devoid of any soft landscaping; and the site has limited recreational value lacking any street furniture. The amenity and recreational value of the land is therefore limited and its re-development for 1 dwelling is not considered to result in any significant harm.
- 1.7 The plot size is considered sufficient to accommodate 1 dwelling in a manner which would not result in a cramped development providing sufficient private amenity space and parking for both dwellings, as demonstrated by the accompanying indicative layout plan. The proposed development would appear in keeping with the existing pattern of development and would not result in any significant harm to the character of the area.
- 1.8 The application is accompanied by a completed unilateral undertaking securing the financial contribution toward recreational disturbance in accordance with the Essex coast Recreational disturbance Avoidance and Mitigation Strategy and a financial contribution towards public open space.
- 1.9 Officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve a development that would not detract from the character of the area or harm residential amenities. The application is therefore recommended for approval.

**Recommendation: Outline 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 a contribution towards public open space.

**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, 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:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is

not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF (which applies until such time that the figures in the new Local Plan are adopted).

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

None relevant.

### 4. Consultations

ECC Highways Dept  
05.06.2020

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

Prior to first occupation of the proposed development, the proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.  
Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.  
Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

All off street car parking shall be provided in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

Any garage provided with its vehicular door facing the highway or proposed highway, shall be sited a minimum of 6m from the highway boundary.

Reason: To ensure that the vehicle to be garaged may be left standing clear of the highway whilst the garage door is opened and closed, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

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

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

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative1: The indicative off street parking arrangement shown in Block Plan Drawing Numbered 1A

shows a parking space constrained by structures, the width of this parking space, if confirmed in the FULL application, should be shown at no less than 3.4m in width to enable pedestrian circulatory space around a parked vehicle.

Informative2: 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](mailto:development.management@essexhighways.org) or by post to:

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

## 5. **Representations**

- 5.1 Brightlingsea Town Council have been consulted on this application and have reserved their comments until the detailed planning application is received.
- 5.2 6 letters have been received objecting to the development raising the following concerns:
- Overlooking and loss of privacy for surrounding dwellings
  - Negative impact on property values
  - Amenity land used for recreational activities
  - Lack of public open space for residents
  - Increase in vehicular traffic as a result of development
  - Loss of privacy and view
  - Loss of light for existing surrounding properties
  - Overdevelopment
  - Increasing pressure on local amenities such as schools, doctors surgeries and transport infrastructure
  - Loss of privacy looking into front bedroom windows

## 6. **Assessment**

- 6.1 The main considerations are;
- Site Context;
  - Description of Proposal;
  - Site History;
  - Principle of Development;
  - Landscaping and Loss of Open Space;
  - Scale, Layout and Appearance;
  - Residential Amenities;
  - Highway Safety and Parking;

- Legal Obligations - Recreational Impact Mitigation; and,
- Legal Obligations - Open Space/Play Space Contribution.

#### Site Context

- 6.2 The application relates to a parcel of land approximately 0.03 hectares in size located land adjacent 25 Dover Road, Brightlingsea.
- 6.3 The site occupies a corner plot fronting Dover Road to the east and to the north is a public footpath which links Dover Road to Dover Road. The residential character is mixed comprising both single and one and a half storey dwellings.
- 6.4 The site has an open frontage and comprises mowed grassland bounded by the rear and side boundaries of existing residential dwellings and their gardens.

#### Description of Proposal

- 6.5 The application seeks outline planning permission with all matters reserved for the erection of 1 detached dwelling.
- 6.6 Layout, scale, appearance, access and landscaping are all reserved for future consideration.
- 6.7 The application is accompanied by an indicative layout plan demonstrating how the site could be developed with the dwelling fronting Dover Road with a private garden and 2 parking spaces.

#### Site History

- 6.8 The site forms part of a small development of 7 dwellings along the Dover Road built in late 1970s on a former farm land. The plot was transferred to TDC in 1977 by the local developer together with a sum of money to be used as an amenity area.
- 6.9 The site did not form part of the Tendring Open Spaces Strategy carried out in 2007 as the site falls under 0.2 hectares. The plot does not form part of a green corridor and is too small to constitute as recreational open space on its own merit. Consequently, the site is not designated or protected open space within either the adopted or emerging Local Plans.
- 6.10 On the 18<sup>th</sup> January 2019 it was corporately agreed by the Portfolio Holder for Finance and Corporate Resources to initiate the process to dispose of the land and to explore the opportunity to develop the land asset for 1 dwelling in order to support local housing provision. This disposal is part of the Council's land rationalisation project.

#### Principle of Development

- 6.11 The site lies within the Brightlingsea 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.
- 6.12 Saved Policy HG3 of the adopted Local Plan deals with residential development within defined settlements stating that, within the defined development boundaries of towns and villages, 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.

- 6.13 As such the principle of siting 1 dwelling on this land is acceptable subject to the detailed considerations relevant to this proposal set out below.

#### Landscaping and Loss of Open Space

- 6.14 The site is set to grass and does not contain any trees or other significant vegetation. There is scrubby vegetation on the western boundary including a small Laurel. None of the vegetation on the site merits retention or protection by means of a tree preservation order. The site is not safeguarded open space within either the adopted or emerging Local Plans.
- 6.15 In terms of the impact of the development on the local street scene, the loss of the open space would visually detract from the current 'open' character of the area to some extent. At the present time the open space does not appear to be well used but it does have the potential to provide recreational benefits for local residents.
- 6.16 The application site is located approximately 364 metres away from Bayard Recreation Ground, Regent Road, Brightlingsea which is within walking distance of the safeguarded green space.
- 6.17 Details of soft landscaping would be secured at the reserved matters stage of the application softening and enhancing the development.
- 6.18 Whilst the benefits of the site in its current form are recognised, the site is not safeguarded open space within either the adopted or emerging Local Plans and is surrounded by housing; the site has limited visual amenity value being devoid of any soft landscaping; and the site has limited recreational value lacking of any street furniture. The amenity and recreational value of the land is therefore limited and its re-development for 1 dwelling is not considered to result in any significant harm that warrants refusal of planning permission on this basis.

#### Scale, Layout and Appearance

- 6.19 Paragraph 8 of the 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. 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. Saved Policy HG14 requires a minimum of 1 metre side isolation between dwellings.
- 6.20 The plot size is considered sufficient to accommodate 1 dwelling in a manner which would not result in a cramped development providing sufficient private amenity space and parking for both dwellings, as demonstrated by the accompanying indicative layout plan. The proposed development would appear in keeping with the existing pattern of development and would not result in any significant harm to the character of the area.

#### Residential Amenities

- 6.21 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.

- 6.22 Although scale forms a reserved matter, given the predominant bungalow nature of the site's surroundings and due to the relationship of the site with the side and rear garden areas of existing dwellings and their windows, a condition will be imposed to ensure that the proposed dwelling is single storey to reduce any impact upon neighbouring amenities.
- 6.23 Overall, officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve internal layout and separation distances that would not significantly detract from the amenities of nearby properties or the future occupiers of the proposed dwellings; and could provide ample garden space in excess of the minimum standards set out within Saved Policy HG9 of the adopted Tendring District Local Plan (2007).

#### Highway Safety and Parking

- 6.24 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.
- 6.25 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.
- 6.26 The application is in outline form with all matters reserved. It is considered that the site is capable of accommodating the required level of parking and the submitted indicative plan demonstrates this. The additional traffic movements associated with 1 dwelling would not be excessive and therefore not harmful to highway safety.
- 6.27 Essex County Council as the Highway Authority has been consulted on the application and raise no objection to the development subject to conditions which will be imposed or added as informative's as required having regard to the access considerations forming a reserved matter.

#### Legal Obligations - Recreational Impact Mitigation

- 6.28 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.
- 6.29 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.
- 6.30 The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 1.4 km from the Colne Estuary SPA and Ramsar and Essex Estuaries SAC. New housing development within the Zoi would be likely to increase the number of

recreational visitors to the Colne Estuary 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.

- 6.31 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 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.
- 6.32 A completed unilateral undertaking has been received thus securing the required financial obligation.

Legal Obligations - Open Space/Play Space Contribution

- 6.33 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.
- 6.34 There is currently a deficit of -13.68 hectares of play and formal open space in Brightlingsea. There are two play spaces in Brightlingsea, a Local Area for Play and Skate Park at Promenade Way, Brightlingsea and a Local Equipped Area for Play at Regent Road Recreation Ground, Brightlingsea. This is 0.2 miles from the proposed development.
- 6.35 Due to the overall deficit with in Brightlingsea a contribution towards increasing the play facilities is relevant and justified to the planning application. Any contribution will be used towards providing new play equipment at the nearest play area Bayards Rec Ground, Regents Road.
- 6.36 A completed unilateral undertaking has been received securing this financial obligation in accordance with the above-mentioned policies.

**7. Conclusion**

- 7.1 The site is located within the settlement development boundary and is not designated as safeguarded open space. The development is considered to represent a sustainable form of development that accords with the aims of national and local plan policy.
- 7.2 Officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve a development that would not detract from the character of the area or harm residential amenities. 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 Section 106 legal agreement with the agreed Heads of Terms, as set out in the table below:

| CATEGORY | TERMS                |
|----------|----------------------|
|          | £125.58 per dwelling |

|   |  |
|---|--|
| Financial contribution towards<br>RAMS. |  |
| Open Space Contribution                 | New play equipment at Bayards<br>Recreation Ground, Regents Road,<br>Brightlingsea |

## 8.2 Conditions and Reasons

1. Application for the approval of Reserved Matters must be submitted before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be begun before the expiration of 2 years from the date of approval of the last of the Reserved Matters to be approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. No development shall be commenced until plans and particulars of "the Reserved Matters" referred to in the above conditions relating to the Access, Appearance, Landscaping, Layout and Scale have been submitted to and agreed in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - The application as submitted does not provide sufficient particulars for consideration of these details.

4. 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.

5. No above ground works shall take place until a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved

by the Local Planning Authority. The approved boundary treatment shall be implemented before the dwellings hereby permitted are occupied and retained in this approved form unless otherwise agreed in writing by the Local Planning Authority.

Reason - In the interests of providing adequate privacy for occupiers of the development and neighbouring residential properties and in the interests of visual amenity.

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

Reason - In the interests of residential amenities.

7. All new parking areas and areas of hardstanding 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 within the site.

Reason - In the interests of sustainable development and to minimise the risk of surface water flooding.

- 8 The dwelling hereby permitted shall be single storey only.

Reason - In the interests of visual amenity having regard to the character of Dover Road and in order to minimise the visual impact of the development on the open countryside beyond.

### 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

The indicative off street parking arrangement shown in Block Plan Drawing Numbered 1A shows a parking space constrained by structures, the width of this parking space, if confirmed in the FULL application, should be shown at no less than 3.4m in width to enable pedestrian circulatory space around a parked vehicle.

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](mailto:development.management@essexhighways.org) or by post to:

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

## **9. Additional Considerations**

### Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
  - 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
  - 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
  - 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

### Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a

public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.

- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

#### Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

#### **10. Background Papers**

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