

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	29/09/2020
Planning Development Manager authorisation:	SCE	06.10.2020
Admin checks / despatch completed	DB	06/10/20
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CD	06/10/2020

**Application:** 20/00342/FUL **Town / Parish:** Little Oakley Parish Council

**Applicant:** Tocia Properties Ltd

**Address:** Land to The South West of Hammond Drive Ramsey Harwich

**Development:** Proposed erection of 5 single storey three bedroom dwellings.

### **1. Town / Parish Council**

Little Oakley Parish  
Council  
09.04.2020

Little Oakley wish to OBJECT to the above planning application on the following grounds:

1. That this new development is "Backland" development under the definitions in the Adopted Local Plan (2007) and in the emerging Local Plan 2013-2033, and thus does not satisfy all the criteria of Policy LP8 of the emerging Local Plan or of HG13 of the 2007 Local Plan in that it is on the edge of defined settlements where it will produce a hard urban edge.

2. Whilst this new development is within the Little Oakley settlement boundary of the emerging Local Plan, it is outside of the settlement boundary of the adopted Local Plan, which still carries some weight.

3. The new development is an over-development for the size of the plot. The development latches on to the existing development of Hammond Drive where five single storey dwellings were recently built (Ref 16/02084/OUT & 17/01150/DETAIL) where the size of the five dwellings (2 type A's, 2 type C's and 1 type D dwellings) averaged 104.2 m<sup>2</sup> with garden spaces averaging 191.34 m<sup>2</sup>. The new development of five single storey dwellings have a footprint of 104.3 m<sup>2</sup> with garden spaces averaging 159.0 m<sup>2</sup> (smallest is 106.2 m<sup>2</sup> and largest is 280.1 m<sup>2</sup>). Therefore the new development is not in keeping with the development it adjoins.

If however the Planning Authority is moved to approve this new development, Little Oakley Parish Council would be pleased to support the reopening of the abandoned/deregistered public right of way marked in green on the attached Location Plan. Photographs of this "dead-end" footpath are also attached. Local residents can remember when this was an official footpath and the reopening/re-adoption of it as a PROW through to the area of Safeguarded Local Green Space to the west of the site would be advantageous to residents of Bayview Crescent and the surrounding area.

This Local Green Space facilitates access to the rear entrance of Two Village Primary School and to other established PROW's and Little Oakley Parish Council is looking at the possibility of securing this land from Essex County Council for recreational use. A small slither of land in the south corner of the site would have to be given over to facilitate this footpath, but this is the plot on the current plans with the largest garden area (280 m2).

Little Oakley Parish Council is also concerned that small developments of this size do not have to include affordable housing for local families.

## **2. Consultation Responses**

ECC Highways Dept  
31.03.2020

The information that was submitted in association with the application has been fully considered by the Highway Authority. The proposals are situated just off Hammond Drive, a cul-de-sac and the application provides adequate parking and turning therefore:

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

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

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

2. Prior to the occupation of the proposed development the internal layout shall be provided in principal and accord with drawing number:

- 6061-003 Proposed Block Plan.

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 DM1.

3. Prior to occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. In accordance and in principal with Drawing no. 6061-003 should incorporate the following detail:

- The access road being constructed as a 5.5m wide shared use route with 6m radii kerbs at the bell mouth, tapering down to a lesser width.

- A straight section of carriageway to be provided from the entrance junction for 6 metres.

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. No unbound material shall be used in the surface treatment of the vehicular access or shared private drive throughout.

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

5. 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.

6. 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 DM1.

7. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres, while each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

8. 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.

9. 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.

10. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

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: NOTE: the first two driveways (for Plots 1 and 2) shall be constructed at right angles to the proposed shared private drive. The width of the access at its junction with the carriageway shall not be more than 3.6 metres (4 drop kerbs), and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

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: 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

4: 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.

### **3. Planning History**

16/02084/OUT	Alteration of one dwelling and erection of 5 no. bungalows.	Approved	04.04.2017
17/01150/DETAIL	Reserved matters application following outline approval 16/02084/OUT - Alteration of one dwelling and erection of 5 no. bungalows.	Approved	06.10.2017
17/01913/DISCON	Discharge of condition 2 (construction method statement) of planning permission 17/01150/DETAIL.	Approved	07.11.2017

#### **4. Relevant Policies / Government Guidance**

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

HG7 Residential Densities

HG9 Private Amenity Space

HG13 Backland Residential Development

HG14 Side Isolation

EN1 Landscape Character

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

COM6 Provision of Recreational Open Space for New Residential Development

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP8 Backland Residential Development

HP5 Open Space, Sports & Recreation Facilities

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

### **Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018, 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.

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.

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.

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.

## **5. Officer Appraisal (including Site Description and Proposal)**

### Site Description

The application relates to a parcel of land approximately 0.24 hectares in size located to the south west of Hammond Drive, off Mayes Lane within the Parish of Little Oakley.

To the south of the site is Bayview Crescent leading through to Lodge Road which provides pedestrian access to the open space to the west of the site and the Primary School to the north via a Public Right of Way.

### Description of Proposal

The application seeks full planning permission for the erection of 5 detached 3 bedroom bungalows with associated access (taken from the south-west corner of Hammond Drive), turning, parking and garden provision.

### Assessment

The main planning considerations are:

- Principle of Development;
- Layout, Scale and Appearance;
- Residential Amenities;
- Access and Parking;
- Trees and Landscaping;
- Legal Obligations - Open Space/Play Space Contribution;
- Legal Obligations - Recreational Impact Mitigation;
- Legal Obligations - Affordable Housing;
- Other Matters; and,
- Representations.

### Principle of Development

In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. The National Planning Policy Framework 2019 (NPPF) must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Plans and decisions should apply a presumption in favour of sustainable development. In line with Paragraph 11 of the NPPF, achieving sustainable development, is development that contributes positively to

the economy, society and the environment and under the 'presumption in favour of sustainable development', authorities are expected to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

The 'development plan' for Tendring comprises the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Little Oakley is categorised as a Village within the adopted Local Plan and as a Smaller Rural Settlement with the emerging Local Plan. Each of these smaller rural settlements can achieve a small scale increase in housing stock over the plan period. To allow for this to happen settlement boundaries have been drawn flexibly to accommodate a range of sites both within and on the edge of the villages and this enabling them to be considered for small-scale residential 'infill' developments provided that it does not detrimentally impact the historic or natural environment.

The site lies outside of the Settlement Development Boundary for the area as defined within the adopted Tendring District Local Plan 2007. However, the extended boundary as defined within the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 now incorporates the application site.

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, highway, local housing needs and sustainability criteria, as appropriate, and can take place without material harm to the character of the local area. Proposals for development of infill plots should ensure that the scale, design and intensity of any new building are in harmony with existing surrounding development.

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.

The principle of residential development on this site has therefore been established through the extension of the settlement development boundary. This is recognised as a socially sustainable location. The detailed considerations relevant to this proposal are set out below.

### Layout, Scale and Appearance

Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective. Saved Policy QL9 of the Tendring District Local Plan (2007) and Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality.

The proposed development will appear as a continuation of the Hammond Drive development with similar plot sizes, design and appearance and overall density of development. The layout has been amended slightly to allow for a better spaced development by moving Plot 1 and correcting the relationship with Plot 3 and the neighbouring property to the south fronting Bay View Crescent (originally submitted plan was incorrect and the siting of the neighbouring property was shown in the wrong position).

The development cannot be considered backland being bounded by existing residential development and being a continuation of Hammond Drive. The Development does not extend rearward beyond the existing built form and will not appear out of keeping with the existing pattern of development nor set a harmful precedent.

Each plot retains at least 1 metre or more to its respective boundaries, provides private amenity space that accords with or exceeds minimum standards and provides at least 2 parking spaces for each dwelling. For these reasons, the development cannot be considered cramped or overdevelopment of the site.



## Residential Amenities

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. Furthermore, Policy HG14 states that a minimum of 1 metre should be retained to boundaries in order to safeguard the amenities of neighbouring residents. In addition, Saved Policy HG9 sets out the minimum standards for private amenity space provision.

As stated above, each proposed dwelling retains 1 metre or more to all boundaries. Each property is served by a private garden area that meets or exceeds the minimum standards set out with HG9. The amendments made to the 2 plots mentioned above allow for an improved relationship with neighbouring dwellings. The single storey scale of the development and hipped roof design will not result in any material loss of daylight, sunlight or privacy.

Officers consider that sufficient space is available on site to provide a development that will achieve an internal layout and separation distances that will not detract from the amenities of any nearby dwellings or the future occupiers of the proposed dwellings.

## Access and Parking

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.

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.

Each dwelling is served by 2 parking spaces and a garage all of which comply with the above dimensions, exceeding the standards.

The development of a further 5 dwellings from Hammond Drive is not considered excessive and the road is of a size and layout that can satisfactorily accommodate the additional traffic movements associated with the development. The internal road layout, turning and parking for the development site itself all comply with highway standards and Essex County Council Highway Authority raise no objection to the development subject to conditions which will be imposed where necessary.

## Trees and Landscaping

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.

The application site is adjacent to Hammond Drive and would be accessed from the existing highway. The creation of the new vehicular access would necessitate the removal of several Holly trees that are situated on the boundary of the application site. These trees are an attractive feature in their setting but the contribution that they make to the character and appearance of the public realm is not so great that they merit protection by means of a tree preservation order. Also in the position of the proposed vehicular access there is a Pyracantha hedge adjacent to, and obscured

from view, by the existing boundary fence. No Significant harm will result from the removal of the hedge.

There are two small Oaks in separate locations on, or close to the southern and south western boundaries of the application site. These trees are both shown as retained. They currently make only a moderate contribution to the appearance of the area as they cannot be clearly seen from a public place. Nevertheless it would be desirable for them to be retained and the site layout plan makes provision for this.

Although there is limited opportunity for new soft landscaping the site layout plan shows indicative new planting which will be secured by condition.

#### Legal Obligations - Open Space/Play Space Contribution

Policy COM6 of the adopted Tendring District Local Plan 2007 states that 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.

In line with the requirements of saved Policy COM6 and emerging Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space.

There is currently a deficit of -1.08 hectares of equipped play/open space in Little Oakley. Currently there is only one play area in Little Oakley and limited open space that is available to the residents.

The parish have identified the need to increase the open space and play provision in Lt Oakley. They have obtained some land from Essex County Council in which they will provide play equipment. Therefore a contribution is both justified and relevant to this application, any contribution will be used to create a new play provision at Lodge Road Field, Lodge Road, Little Oakley.

A completed unilateral undertaking has been received to secure this financial contribution ensuring that the development complies with the Saved Policy COM6 and Draft Policy HP5.

#### Legal Obligations - Recreational Impact Mitigation

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.

The application scheme proposes a residential on a site that lies within the Zone of Influence (ZoI) being approximately 1700 metres from Hamford Water Ramsar, SPA and SAC. 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.

A completed unilateral undertaking has been received to secure this financial contribution. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

#### Legal Obligations - Affordable Housing

Paragraph 34 of the National Planning Policy Framework 2019 (NPPF) state that Local Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required. Paragraph 63 of the NPPF states provision of affordable housing should be sought for residential developments that are major developments.

Within the glossary of the NPPF (2019), major development is defined as development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.

Policy HG4 in the adopted Tendring District Local Plan (2007) requires major scale residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available for affordable or Council Housing.

The proposal subject of this application is for a total of 5 dwellings on a site measuring approximately 0.24 hectares. As such, if the site was to be considered in isolation it would not fall within the definition of a major development set out within NPPF (2019) and consideration against the affordable housing policies would not apply. However, the issue here is that through a series of applications the requirement to provide affordable housing can be bypassed.

In the case of *New Dawn Homes Ltd v S S for C & L G and Tewkesbury B C* [2016] EWHC 3314 (Admin), Mr Justice Holgate sitting in the High Court endorsed the approach taken in *R (Westminster City Council) v First Secretary of State and Brandlord Limited* [2003] J.P.L 1066 to determine the factual question of whether two development sites could be aggregated or considered to form part of a larger whole. Those criteria were ownership, whether the areas of land could be considered to be a single site for planning purposes, and whether the development should be treated as a single development.

This case informs the assessment of whether the current application should be considered in combination with the applications approved under 16/02084/OUT and 18/01772/FUL. The history of the site and adjoining sites can be summarised as follows;

- *16/02084/OUT - Alteration of one dwelling and erection of 5 no. bungalows at 21 Mayes Lane Ramsey Harwich Essex CO12 5EJ.*  
Application made in Dec 2016 decided in April 2017. Tocia Properties Ltd acquired the site from the previous owner and at the time of the application and at the time of the grant of planning permission did not own the land for the other two sites.
- *18/01772/FUL - Demolish 1 no. existing dwelling on the site and erect 2 no. new semi-detached bungalows at 17 Mayes Lane Ramsey Harwich Essex CO12 5EJ*  
Tocia Properties Ltd were the applicants but not the owner of the land. Owners were Mr & Mrs Palmby. Made on 22 Oct 18 decided May 19.
- *20/00342/FUL – current application for 5 bungalow*  
Owned by Tocia Properties Ltd from 23 July 2019.

Hence in terms of ownership Tocia Properties Ltd have never been in a position to submit one planning application for all three sites. This is not a case of site splitting but of site assembly. The land for 16/02084/OUT was bought by Tocia in May 2018. 18/01772/FUL was still in the ownership of others when the permission was granted. The land for 20/00342/FUL is only acquired after planning permission for the two other applications has been granted.

- *Single Site for planning purposes*  
The 16 and 18 sites were separate dwellings and gardens and separate planning units. 20 site is a field.
- *Treated as a single development*  
Development on the two sites with permission has already occurred and was not dependant on the development now proposed.
- *Other considerations*  
At the time of 16/02084/OUT and 18/01772/FUL the TDC local plan did not require affordable housing and no national policy or other material consideration required affordable housing for the applications. It follows that there could be no intention to avoid having to provide affordable housing.

The current application is not an example of deliberate 'site splitting' and an affordable housing contribution is not application to this development.

#### Other Matters – Re-opening of Public Right of Way

To the south of the site there is an existing, unused and closed off alleyway between the properties fronting Bayview Crescent. This is not a Public Right of Way and Essex County Council have no record that it ever was and is not in their ownership.

There has been requests from locals that the re-opening of this alley should be secured as part of this application.

A request of this nature would need to be considered reasonable, relevant to the development and necessary to making the application acceptable. This would also be subject to land ownership and maintenance. Access to the open space is available via the existing access via Lodge Road being only a short walk from the location of the pathway (approximately 130 metres). On this basis, an alteration to the planning application to secure a throughway along the site boundary and the re-opening of this pathway would be wholly unreasonable and unnecessary and could not be secured as part of this minor scale application which is acceptable in all regards.

#### Representations

Little Oakley Parish Council raise an objection to the application on the following grounds:

- Backland development.
- Outside settlement development boundary of the adopted Local Plan.
- Over-development for the size of the plot.
- Small developments of this size do not include affordable housing for local families.
- If LPA minded to approve the public right of way should be reopened through to the open space

1 letter of representation has been received from the immediate neighbour to the north of the application site complaining that a neighbour notification letter had not been sent. The letter was sent on 07.05.2020 but no further comments have been received.

A request to refer the application to Planning Committee for decision if officers were mindful to approve was received by Councillor Bush. However, following the receipt of additional information from The Highway Authority in relation to the Public Right of Way and an email exchange with Councillor Bush regarding the merits of the application, the call-in request was withdrawn.

*The objections and comments raised by Little Oakley Parish Council have been addressed in the main report above.*

#### Conclusion

For the reasons set out above, the application is considered to represent sustainable development and would not result in any material harm that warrants a refusal of planning permission. The application is therefore recommended for approval subject to conditions.

### **6. Recommendation**

Approval - Full

### **7. Conditions**

- 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 (including materials details):

Drawing No.: 6061-SK10 Revision A - Amended Proposed Site Plan

Drawing No.: 6061-004 - Plots 1 - 5 Proposed House Types, Elevations and Materials

Drawing No.: 6061-005 - Plots 1 - 3 Proposed Garage Plans, Elevations and Materials

Drawing No.: 6061-006 - Plots 4 and 5 Proposed Garage Plans, Elevations and Materials

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 any 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 - In order to enhance and soften the appearance of the development in the interests of visual amenity and the character of the area.

- 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 which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure the adequate implementation and maintenance of the approved landscaping scheme for a period of five years in the interests of the character of the area and the quality of the development.

- 5 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B, C, D 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 dwellings or their roofs, 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 - It is necessary for the Local Planning Authority to be able to consider and control further development in the interests of visual amenity and residential amenities.

- 6 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 forward of the dwellings 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 and highway safety.

- 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 area.

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

- 8 The removal of any vegetation for site access/site clearance 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.

- 9 As per drawing no. 617.19.04 Rev. L no unbound material shall be used in the surface treatment of the vehicular access/ driveway throughout.

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

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

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

- 11 Prior to occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway in accordance with the approved Site Layout Plan Drawing 6061-SK10 Rev A and should incorporate the following detail:

- The access road being constructed as a 5.5m wide shared use route with 6m radii kerbs at the bell mouth, tapering down to a lesser width.
- A straight section of carriageway to be provided from the entrance junction for 6 metres.

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

- 12 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.

- 13 No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority.

The 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 and 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 - To ensure that on-street parking of construction vehicles in the adjoining streets does not occur, to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and to ensure working conditions are sympathetic to residential amenities.

- 14 Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres, while each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles. All single garages should have a minimum internal measurement of 7m x 3m. All garages and parking spaces shall be provided prior to the occupation of the dwellings hereby approved and retained this approved form unless otherwise agreed in writing by the Local Planning Authority.

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

## **8. Informatives**

### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

### Legal Agreement Informative - Open Space/Play Space Contribution

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

### Legal Agreement Informative - Recreational Impact Mitigation

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

### Highways Informatives

1: NOTE: the first two driveways (for Plots 1 and 2) shall be constructed at right angles to the proposed shared private drive. The width of the access at its junction with the carriageway shall not be more than 3.6 metres (4 drop kerbs), and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

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: 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

4: 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.

#### Building Control Informative

Fire service access to be provided in accordance with B5.