

Application: 20/00822/FUL

Town / Parish: Tendring Parish Council

Applicant: Pemberton, Copping and Holben - Maison Investments Ltd

Address: The Laurels Parsonage Lane Tendring Clacton On Sea CO16 0DE

Development: Erection of 3 no. bungalows.

1. **Executive Summary**

- 1.1 The application was previously referred to the Planning Committee at the request of Councillor Harris on behalf of Tendring Parish Council by virtue of the site being 'backfill' development, the site is outside the settlement boundary; the site is an unsustainable development with insufficient infrastructure; overdevelopment, the development would lead to unacceptable disturbance to neighbours; unacceptable access and highways issues; and there is no proven need for this type of property in an area that has already seen significant development.
- 1.2 The application has now been referred back to the Planning Committee as clarification on matters regarding drainage has now been obtained. Other additional consultation responses, and contributions are included below in italics for ease of reference.

1.3 **Ecology**

The consultation response from Essex County Council Ecology was received too late to include in either the main report or the Committee Update sheet for the 17th November 2020 meeting. The response is summarised here:-

***ECC Ecology** have reviewed the submitted Preliminary Ecological Appraisal and Great Crested Newt Survey (Robson Ecology, June 2020) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and mitigation measures to minimise impacts. ECC Ecology are satisfied that there is sufficient ecological information available for determination.*

ECC Ecology are satisfied that the mitigation measures identified in the Preliminary Ecological Appraisal and Great Crested Newt Survey (Robson Ecology, June 2020) are appropriate and necessary to make the development acceptable. We recommend that these should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority Species.

Neighbour comments have also identified that there is an additional pond, adjacent to the site boundary, which has not been assessed for Great Crested Newts, and supports an unidentified species of newt. However, the Preliminary Ecological Appraisal and Great Crested Newt Survey (Robson Ecology, June 2020) identifies that the pond on-site supports a substantial number of smooth newts, and it is therefore considered likely that any adjacent ponds with newts, are also likely to contain smooth newts. Additionally, the Preliminary Ecological Appraisal and Great Crested Newt Survey (Robson Ecology, June 2020) poses that the majority of the site is closely mown amenity grassland, and is considered unlikely to support Great Crested Newts. However, there are records of Grass Snakes within 200m of the site, and neighbour objections state that Grass Snakes have been identified in adjacent gardens, and the site is considered suitable for Hedgehogs and foxes. With the exception of foxes, these species are protected under the Wildlife and Countryside Act 1981 (as amended) from killing and all reptiles and Hedgehog are also listed as Priority species under s41 Natural Environment and Rural Communities (NERC) Act 2006.

Impacts will be minimised such that the proposal is acceptable subject to the conditions below based on BS42020:2013. Submission for approval and implementation of the details below should be a condition of any planning consent.

The conditions required by ECC Ecology are stated in Section 8.2.

1.4 Drainage

Matters pertaining to (i) the nature of the sewer/drainage assets ownership and (ii) the capacity of said assets to accommodate the burden of three additional dwellings on such.

*The Pre-Development team at **Anglian Water** have provided the following responses:-*

Assets Affected:-

There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site.

- Wastewater Treatment

The foul drainage from this development is in the catchment of Tendring Green Water Recycling Centre that will have available capacity for these flows.

Used Water Network:-

The sewerage system at present has available capacity for these flows via a gravity conveyance to manhole 0901 to the South of the development. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

Surface Water Disposal:-

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

In response to the wastewater map, supplied to the Local Planning Authority on 30th November 2020 Anglian Water comment that:-

'The plan is a legitimate Anglian Water map which indicates a public combined sewer crossing the site running in a south easterly direction. The public sewer is shown as a combined sewer draining both foul and surface water. The Public sewer discharges flows to the Anglian Water, Water Re-cycling Centre (WRC) (TENGST). The flows are treated at the WRC and the final effluent discharged to the environment.'

1.5 Highways

The speed limit along Parsonage Lane is confirmed as 40mph.

The highways capabilities of the scheme are fit for a 60mph road, providing for 90m full and clear visibility splay along both the X and Y axis, which exceeds the minimum requirements for a 40mph road as per the case here.

In regards to the access width; a width of 5.5m would be required for roads which have a high speed limit or where traffic is heavy; if the road was lightly trafficked and visibility was good then 4.8m is an acceptable width.

Drawing 1810.20.01E, received 6th November 2020 shows that a width of 4.8m can be achieved for the first 6m into the site at the access. The eastern-entrance boundary wall is conditioned to be retain at a height no greater than 0.6m.

1.6 Additional objection

The applicant has constantly made a false statement in the application and not been completely honest: 'Existing wall & hedge to be reduced to 600mm high to gain 2.4m x 90m visibility' (see Medusa Design Ltd drawing no 1810/19/01 Rev E). This statement glosses over and ignores the actual hazard that would be created at the roadway junction of the proposed development. The stated 90m line of sight is NOT possible, the maximum distance is actually 19m (measured on site) as the front wall (1.8m high) and fence (currently 1.2m high) at Wychwood to the east of the site obscures the view of the highway from the junction at the development.

Conclusion: the maximum splay length heading east from the proposed junction is inadequate (19 metres) for the speed of the traffic using the roadway and would need to be at least 40 metres.

I am stating the obvious but if the existing driveway at the side of The Laurels becomes a roadway the restricted visibility will result in a road traffic accident and someone may be injured or worse. If this planning application is approved to a large degree Tendring Planning Office will be culpable for any of the subsequent accidents.

It is imperative that your office conducts a full and thorough investigation into the issues I have detailed in this communication.

I would recommend that this Planning Application is refused on the grounds of poor roadway egress and the creation of area where traffic accidents will occur.

1.7 The Chase

In paragraph 6.22 of the report it is reported that The Chase is an existing form of backland development in a rear/side garden, constructed in the 1970's. The property referred to by this statement is Rose Cottage; it may well be the case that Chapel Lodge was subsequently constructed 'forward' of The Chase – but the end result remains that The Chase is an example of a dwellinghouse which is clearly at odds with the established ribbon of development, yet its siting causes no harm for this reason.

- 1.8 The application relates to what is essentially the rear garden area of The Laurels, Parsonage Lane, Tendring. The site is roughly 'L' in shape and approximately 0.2 hectares in size. The Laurels is one of a variety of dwelling types in the locale which comprises detached and terraced two-storey, chalet and single-storey bungalows. The Laurels is unique in terms of its rear garden which is of a significant size in comparison to any other dwelling in the settlement.
- 1.9 The site is centrally located within the Tendring Green Settlement Development Boundary as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017. The principle of residential development in this location is therefore acceptable subject to detailed design and impact considerations.
- 1.10 The application seeks full planning permission for the erection of 3 detached three-bedroom

detached single-storey bungalows, served by way of a single access providing access to a parking/turning area. The dwellings are provided with surface parking and secure cycle-storage.

- 1.11 The proposal would not result in the loss of an area of public open space or safeguarded green space. The proposed bungalows are of a scale, design and appearance which is comparable with other bungalows in the vicinity. The retention of the brick-built garage provides a significant degree of screening from the public domain. The proposal would result in the loss of ten trees in total – the site does not benefit from any protection in the form of preservation orders, as such any trees can be removed without any consent required from the Local Planning Authority. Two of these are damaged/dangerous having limited life expectancy, five are small fruit trees and the remaining three are not mature or established specimens – all mature, established trees are to remain and offer a significant verdant backdrop to the site. The proposed dwellings are single storey and located sufficient distances from neighbouring dwellings so as not to result in a material loss of residential amenities. The new dwellings and retained dwelling are served by private garden areas and parking that accords with standards.
- 1.12 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.
- 1.13 The application is therefore recommended for approval subject to conditions and the completion of the required legal agreement.

Recommendation:

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

Subject to the conditions stated in section 8.2

2. Planning Policy

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

National Policy:

NPPF National Planning Policy Framework February 2019

NPPG National Planning Practice Guidance

Local Policy:

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

- HG9 Private Amenity Space
- HG13 Backland Residential Development
- LP1 Housing Supply
- COM6 Provision of Recreational Open Space for New Residential Development
- EN6 Biodiversity
- EN11A Protection of International Sites European Sites and RAMSAR Sites
- EN29 Archaeology
- 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
- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP8 Backland Residential Development
- HP5 Open Space, Sports & Recreation Facilities
- PPL4 Biodiversity and Geodiversity
- PPL7 Archaeology

Local Planning Guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

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. In this latter regard, as of 26th January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning

Inspector who issued his final report and recommended 'main modifications' on 10th December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.

The Council has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26th January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.

Where emerging policies are particularly relevant to a planning application and can be given 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 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.

With the adoption of the modified Section 1 of the emerging Local Plan, the Councils 'objectively assessed housing need' of 550 dwellings per annum has been found 'sound' and there is no housing shortfall. The Council is able to report a significant surplus of housing land supply over the 5 year requirement, in the order of 6.5 years.

3. **Relevant Planning History**

20/00822/FUL	Erection of 3 no. bungalows.	Current
--------------	------------------------------	---------

4. **Consultations**

TDC UU Open Spaces 10.08.2020	There is currently a deficit of 1.33 hectares of equipped play/formal open space in the village of Tendring.
----------------------------------	--

Any additional development in Tendring will increase demand on already stretched facilities and increase the current deficit further.

Due to the significant lack of provision in the area if it is felt that a contribution is justified and relevant to the

planning application the contribution received would be used to upgrade and improve the play equipment and the only play area in Tendring. The play area is located on Heath Road, Tendring

ECC Highways Dept
11.08.2020

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

TDC Building Control and Access Officer
10.07.2020

No adverse comments at this time.

Essex Wildlife Trust

No comments received

TDC Tree & Landscape Officer
28.07.2020

The application site currently forms part of the residential curtilage of the host property and contains a range of shrubs and trees. There are some large trees on the boundary of the land. The location of the garden is such that none of the trees on the land feature prominently in the public realm and consequently have low amenity value. For this reason none merit formal legal protection by means of a Tendring District Council Tree Preservation Order.

TDC Environmental Protection
23.07.2020

I have reviewed the application and Phase 1 land contamination risk assessment and the Environmental Protection Team are satisfied with the findings of the Phase 1 land contamination risk assessment.

TDC Waste Management
20.07.2020

Access road to be constructed to suitable standard to allow full access to properties and withstand weight of 26 tonne refuse and recycling vehicles.

Essex County Council Archaeology
28.07.2020

The above planning application has been identified as having the potential to harm non-designated heritage assets with archaeological interest. It is recommended that a Programme of Archaeological evaluation is undertaken.

5. Representations

Twenty contributions were received in response to the display of the site notice and the written public consultation. The objections are tabulated here; those in bold indicate an objection from the Parish Council in this regard:-

Nature of objection	No. of Comments received	Where in the report this is addressed
The site is outside the settlement boundary	14	Paragraphs 6.11 to 6.12
Backland form of development	14	Paragraphs 6.19 to 6.23
Harm the amenity of neighbours (noise)	13	Paragraphs 6.29 to 6.33
Ecology/Protected Species	15	Paragraphs 6.26 to 6.28
Vehicle access	16	Paragraphs 6.24 to 6.26

Not a sustainable location	15	Paragraph 6.11 to 6.12
Out of keeping/cramped development	6	Paragraphs 6.15 to 6.18
Decrease property values	1	This is not a material consideration in the determination of this planning application
Loss of a garden	1	Paragraphs 6.29 to 6.33
No mains sewage on Parsonage Lane; only a communal sewer Are the gardens big enough for sub-surface irrigation systems It has not been demonstrated that surface water runoff from the site can be adequately dealt with without increasing localised flooding several local properties relying on septic tanks with soakaway beds	6	The application form states that there is a main sewer on Parsonage Lane. As this application is not defined as a 'major development' the requirement to incorporate a sustainable drainage system is not a material consideration in the determination of this planning application. As this application is not defined as a 'major development' the requirement to incorporate a sustainable drainage system is not a material consideration in the determination of this planning application.
Sufficient housing exists	5	This is not a material consideration in the determination of this planning application
Loss of privacy	1	Paragraphs 6.29 to 6.33
Speed limit	6	Paragraph 6.26
Removal of the garage	1	Paragraph 6.10
Smell - As there is no mains sewer in Parsonage Lane, it is likely there will be three additional septic tanks that will need emptying. Parking will increase pollution levels in the immediate surroundings. Light - Light intrusion into the back of Fir Tree Lodge will significantly increase.	1	The application form states that there is a main sewer on Parsonage Lane. The number of vehicular movements in association with the property was not objected to by Environmental Protection. Plot 3's flank elevation faces the rear of Fir Tree Lodge at a distance of 39m; this elevation contains one window which serves a bedroom. The light overspill resulting from this dwelling is not considered to have a materially damaging impact on the amenity of this adjoining property. The plans make no reference to security lights.
Loss of outlook	5	There is no "right to a view" which planning controls should seek to safeguard for the continuing benefit of an existing landowner, except where the view from a particular location is also a valued public asset. This was underlined by the judgement in <i>Wood-Robinson v Secretary of State for the Environment</i>

		(1998).
Security	1	It is the applicant's personal choice to have part of their un-enclosed; this is not a material consideration in the determination of this planning application.
Construction Noise	4	Noise generated during construction is not a material consideration in the determination of this planning application.

6. **Assessment**

Site Context

- 6.1 The application site is located south of Parsonage Lane, Tendring Green. The site forms part of the rear residential garden of The Laurels; it has a site area in the region of 0.2ha and this is the largest plot by some considerable size in comparison to other plots in the vicinity.
- 6.2 In regards to built form the plot contains two garages (one finished externally in a grey-type buff brick and the other in a traditional red brick with weatherboarding features), sheds, greenhouses, a walled vegetable garden and an established pond. In regards to soft landscaping the plot is mainly laid to lawn which undulates significantly; the garden contains a substantial number of established conifers to the southernmost boundary and a small established orchard of fruit trees beyond the rear boundary of Wychwood. The substantial hedges on the boundaries with Wychwood and The Chase are to remain.
- 6.3 The property benefits from two separate parking areas – one is accessed via the existing driveway alongside the west flank and the other is located to the left hand of the dwelling and is currently laid to lawn.
- 6.4 The site is surrounded by residential development to the east, south and west, and is located within the heart of the settlement boundary. The surrounding dwellings are of a mixed vernacular and comprise both two-storey, chalet and single-storey bungalows. Immediate neighbours comprise Wychwood (east) – a much-enlarged single-storey bungalow; Fir Tree Cottage (west) – a late twentieth century dwelling; The Chase (east) – a mid-1970's two-storey dwelling sited in the side/rear garden of Rose Cottage; Chapel Lodge (south east) – a large single storey bungalow; and Wellan House (south west) – a two-storey dwelling.
- 6.5 New residential developments exist close to the application site; namely on: land at the entrance to Parsonage Lane, allowed on appeal under reference 14/01435/OUT for five dwellings - this is approximately 80m from the application site; and east of Chapel Lane under reference 16/00668/OUT for five dwellings - this is approximately 170m from the application site.

Proposal

- 6.6 The proposal seeks the erection of three single-storey bungalows; following sub-division of the plot, the bungalows would be sited in what was the rear garden of The Laurels.
- 6.7 The dwellings would be accessed by utilising the first 32.5m metres of the existing driveway; a new internal access roadway would then sweep around behind the garage in a south-easterly curve providing driveway access to each of the dwellings.

- 6.8 Each of the three properties has variations in their external appearance but are of similar heights and have uniform eaves; all three dwellings have their own parking spaces, bin stores and secure cycle storage.
- 6.9 The sub-division of the site necessitates the provision of additional boundary treatment; a fence is proposed to delineate the new rear garden of the host property and this would be roughly in line with the existing fence panels to the boundary with The Chase and Chapel Lodge are also proposed. Along with additional boundary treatments, a new area of hardstanding for parking/turning for the host dwelling would be provided located forwards of the red-brick garage which is to remain.
- 6.10 In order to facilitate Plot 3 the grey-buff garage with its attached shed, the greenhouses and the pond will be removed.

Principle of Development

- 6.11 Tendring District Local Plan 2007 Policy QL1 defines (in general terms) the main focus for new sustainable patterns of development in the District. The Policy also defines the District's Settlement Development Boundaries. Development proposed within a settlement boundary is deemed to be sustainable.
- 6.12 The site is located centrally within the Development Boundary of Tendring Green therefore there is no principle objection to the proposal, subject to the detailed considerations discussed below.

Appearance and Layout

- 6.13 The Government attach great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design.
- 6.14 Saved Policies QL9, QL10 and QL11 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Emerging Policy SP1 reflects these considerations.
- 6.15 Plot one is a three-bedroomed dwelling which would be located near the east boundary of the sub-divided plot; it is roughly 'L' shaped and a maximum of 11m wide and 9.5m deep. Its siting would require the loss of the four fruit trees, one sapling and one conifer; one sapling would be retained. Its rear elevation would be separated from the rear boundary with Wychwood by at least 4.2m. The main ridge runs in an east-west direction and this has a height of approximately 4.4m – in projecting forwards in a southerly-direction the ridge changes direction to north-south direction and this has a height in the region of 4.7m – this highest point is approximately 8.2m from the rear boundary with Wychwood. At its closet point (serving the dining room bay window) the side elevation would be approximately 9m from the rear boundary with The Chase – this separation distance increases to 11.3m. In regards to the higher of the two ridges, this would be over 14m away from The Chase's rear boundary.
- 6.16 Plot two is a three-bedroomed dwelling which would be located near the east boundary of the sub-divided plot. It would have a front-to-front relationship with plot one. It is roughly 'T' shaped and a maximum of 11m wide and 10.5m deep. Its siting would require the loss of one conifer. Its rear elevation would be separated from the rear boundary with Chapel Lodge by more than 9m. The main ridge runs in an east-west direction and this has a height of

approximately 4.5m; in extending sideways in an easterly direction the ridge changes direction to north-south direction and this has a height in the region of 3.7m – this lower ridge is the one that runs almost parallel with the rear boundary of The Chase. At its closet point the side elevation would be approximately 5m from the rear boundary with The Chase – this separation distances increases to 7m. In regards to the higher of the two ridges, this would be over 9.8m away from The Chase’s rear boundary.

6.17 Plot three is a three-bedroomed dwelling which would be located near the south boundary of the sub-divided plot. It is an irregular shape and a maximum of 11.1m wide and 10.3m deep. Its siting would require the loss of one cedar, one scots pine and two other trees. The cedar has suffered from a lightning-strike which has led to catastrophic damage to upper branches and the tree is at risk of being unstable. The damage to the cedar had a ‘knock-on’ effect on the adjacent pine which in turn has led to damage and this tree now has a limited life expectancy. This plot also requires the removal of the garage, shed, greenhouses and the infilling of the pond. Its rear elevation would be separated from the side boundary with Fir Tree Cottage by between 3.9m and 4.2m; The main ridge runs in an east-west direction and this has a height of approximately 4.7m; in extending sideways in a northerly direction the ridge changes direction to north-south direction and this has a height in the region of 4.4m, this direction change increases the separation distances to the boundary with Fir Tree Cottage to 6.9m. Separation distances between the flank elevation and the rear boundary of Chapel Lodge are a little over 10m.

6.18 The site layout makes provision for two undeveloped areas – one in excess of 140sqm and the other in excess of 230sqm; these are an extremely positive feature in the overall appearance of the development by reason of contributing and maintaining a verdant and low-scale characteristic. It is considered appropriate to attach a condition to any forthcoming permission that these areas remain un-enclosed. The single-storey height, footprint and external construction materials accord with the overall established form of development within the locale and for these reasons the development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design.

Backland Development

6.19 With regards to the siting of the proposed dwellings the development does constitute "Backland" development which is, 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. Typical sites include the back gardens of existing dwellings, smallholdings, yards, or small vacant sites.

6.20 The District Council is committed to making effective use of land within existing built-up areas and this is reflected in the policies and objectives set out elsewhere in this Plan. However, clearly this should always be achieved through the development of sites well related to existing development and by schemes which would integrate well with their surroundings. It is often difficult to achieve this on backland sites and such sites also normally have restricted access potential. Consequently only in particular circumstances with careful planning and good design may such sites be acceptable for residential development.

6.21 There are seven criterion that must be met in order for backland development to be considered appropriate; these are listed here – alongside how the proposed development complies:-

The site is within a defined settlement development boundary	The site is located inside the defined settlement development boundary of Tendring Green
--	--

Where a proposal includes existing private garden land which would not result in less satisfactory access or off-street parking arrangements, an unacceptable reduction in existing private amenity space or any other unreasonable loss of amenity to existing dwellings	Access and off street parking is acceptable to the Highways Authority. An acceptable degree of private amenity space is retained
A safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will be discouraged	Access and off street parking is acceptable to the Highways Authority
The proposal does not involve "tandem" development using a shared access.	The layout of the scheme does not cause an unacceptable inter-relationship between existing and proposed development in terms of its spatial configuration
The site does not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution	The site is unique in shape and form, sat centrally amongst the cluster. The site does not disrupt the rhythm or form of the locality to a detrimental degree
The site is not on the edge of defined settlements and likely to produce a hard urban edge or other form of development out of character in its particular setting	The site sits centrally to the defined settlement
The proposal would not be out of character with the area or set a harmful precedent for other similar forms of development	The proposal is in-keeping with the character of the area which comprises a varied mix of dwellings

6.22 In terms of 'backland' developments nearby, the dwelling adjacent to the rear boundary - 'The Chase' - is the product of a late 1970's development in a rear/side garden. A subsequent planning approval for the dwellinghouse makes reference to it as "Due to its setback from the highway, and siting behind properties which front the highway, the dwelling is not prominent in the street scene." The current application would have similar circumstances, though the dwellings would be sited beyond a garage.

6.23 The proposal is defined as a backland form of development, it is however considered to adequately comply with the seven criteria and is therefore deemed an appropriate form of development.

Highways Safety/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. Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. 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. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

- 6.25 Essex County Council Parking Standards requires that new dwellings provide a minimum of two off-street spaces; sufficient space for the remaining development must also be provided.

Landscaping and Biodiversity

- 6.26 Paragraph 175 of the National Planning Policy Framework requires that Local Planning Authorities "conserve and enhance biodiversity".
- 6.27 The application is accompanied by a very detailed Preliminary Ecological Appraisal which was dated 11th June 2020; the appraisal confirms that four surveys were undertaken during the peak great crested newt survey season (18th April to the 12th May 2020). The outcome of the survey is that no great crested newts were recorded in the on-site pond, or the pond 75m to the west (Fir Tree Cottage), which was the only other known pond within 500m of the site that was holding water at the time of the survey. The appraisal states that the pond in the neighbouring property had potential to support amphibians and was included within the newt survey. However, the pond had a very high fish population reducing the potential for presence of great crested newts, though other priority amphibians (e.g., toads) could be present. The majority of the area of impact was well-managed and short-mown lawn grassland, unlikely to support grass snakes, common lizards or other widespread reptiles.
- 6.28 In regards to the loss of existing trees on the site; the cedar has suffered from a lightning-strike which has led to catastrophic damage to upper branches and the tree is at risk of being unstable. The damage to the cedar had a 'knock-on' effect on the adjacent pine which in turn has led to damage and this tree now has a limited life expectancy. In regards to the loss of the fruit trees, these are of a low height typical of their species – there is negligible opportunity for nesting birds to occupy these trees and whilst they offer a small amount of positive biodiversity to the site, the significant benefit that the existing established tree line on the south boundary (which will remain as existing, save for the damaged trees), far outweighs the loss.

Impact on Residential Amenity

- 6.29 The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.30 Different dwelling sizes and types provide accommodation for individuals and families with a wide range of expectations and need for private amenity space. "Private amenity space" comprises a private outdoor sitting area not overlooked by adjacent or opposite living rooms or outdoor sitting areas. It will therefore not necessarily always amount to the entire rear garden. Apart from its private recreation function, private amenity space is also important in achieving well laid out development.
- 6.31 Private amenity space shall be provided to new dwellings in accordance with the following standards: a three or more bedroom house - a minimum of 100 square metres. It is also a requirement that the retained dwelling's amenity space also accords. The host dwelling would have an amenity space in the region of 240sqm, Plot 1's amenity space is in excess of 210sqm, Plot 2's amenity space is in excess of 270sqm and Plot 3's amenity space is in excess of 280sqm. In accordance with the policy requiring the area to not be overlooked by adjacent or opposite living rooms or outdoor sitting areas, the proposed dwellings would have more than sufficient private amenity space available.
- 6.32 In regards to the privacy, daylight or other amenities of occupiers of nearby properties:-

Privacy

The scheme presents no opportunity for overlooking, as there are no openings at first floor level. The upper parts of openings at ground floor level are approximately 2.1m above external ground level and, with boundary treatments of 1.8m proposed, there is potential of only 30cm of window visible above the fence-line. Plot 3 has two windows on their north facing flank, one window serves a bedroom and the other an en-suite – this flank is in the region of 40m away from the rear elevation of Fir Tree Cottage.

Daylight

The focus of the development is towards the southernmost boundary and, with the path of the sun moving from right to left, the siting of the development would be well contained beneath the extremely established and dense tree line.

Amenity

Built form visible from a private vantage point does not necessarily result in adverse residential amenity. The highest ridge of Plot 1 is some 27m away from the rear elevation of Wychwood, an oblique relationship exists between Plots 1 and 2 and The Chase – as such the rear elevation of Plot is closest to the flank of The Chase – notwithstanding this the highest ridge point of Plot 1 is at least 14m away from the boundary – with Plot 2's highest ridge being approximately 18m from the flank elevation. The highest ridge of Plot 3 is in excess of 46m from the rear elevation of Fir Tree Cottage. In regards to noise and pollution (vehicles etc); Fir Tree Cottage has a boundary fence in the region of 2m in height with established planting above it as well as a large detached outbuilding and both of these will contribute to a degree of protection.

- 6.33 For the reasons given above, the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

Archaeology

- 6.34 Archaeological sites are a finite and non-renewable resource. In many cases they are highly fragile and vulnerable to damage or destruction. These sites contain information about our past, are part of our sense of place and are vulnerable for their own sake and for their role in education, leisure and tourism. As a result it is important that they are not needlessly or thoughtlessly destroyed. Within Tendring approximately 1880 sites of archaeological interest are recorded on the Essex Heritage Conservation Record (EHCR) of which 27 are Scheduled Ancient Monuments. These sites range from Palaeolithic deposits of international significance through those of the prehistoric Roman, Saxon and medieval periods and up to modern industrial and World War II/ Cold War monuments. However, the EHCR records only a proportion of the total with many more important sites remaining undiscovered and unrecorded. The nature of archaeological evidence means that all areas of high potential may not have yet been identified. Important archaeological evidence may exist on any site, and thus may be at risk from proposed developments. The District Council, in conjunction with the County Archaeologist and relevant bodies, is determined to identify and protect all-important remains through the use of appropriate policies and their implementation through the development control process. Where the Council believe important archaeological remains are likely to exist, it is reasonable to request a field evaluation funded by the developer, but carried out independently, is carried out prior to determining a planning application. Not all surviving archaeological remains are of equal importance and Policy EN29 reflects this hierarchy. Where permission is granted for development affecting archaeological remains, and preservation in situ is not possible or feasible, conditions will be imposed to ensure that the remains are properly recorded and evaluated and where practicable, preserved, prior to

development. Saved Policy EN29 states that development will not be permitted where the Council considers that it will adversely affect nationally important archaeological sites and their setting and permission will be refused where development proposals do not satisfactorily protect archaeological remains of local importance.

- 6.35 The Essex Historic Environment Record (HER) and Tendring Historic Environment Characterisation Project, demonstrate that the proposed development lies within an area of archaeological interest.
- 6.36 The site lies within a historic green, identified on the Chapman and Andre map of 1777 as Parsonage Green and later known as Tendring Green. Settlement around greens was common in the medieval period, Thatched Cottage lies to the west and dates from the 16th/17th century. Historic mapping shows that the green was infilled before c.1870. The 1st edition OS map shows a house and outbuildings located within the development area, it is identified as a beer house on the 2nd edition OS map. To the east aerial photographic evidence has recorded cropmark features of a rectangular enclosure which meets Chapel Lane and may be earlier in date than the green. In the surrounding area further cropmark evidence of circular enclosures may indicate prehistoric activity.
- 6.37 There is potential for the survival of below ground remains of the outbuildings and structures associated with the historic beer house on the site as well as earlier features relating to the nearby cropmarks. The Historic Environment Officer recommends that pre-commencement and post-excavation conditions in regards to requiring written scheme of investigation are attached to any forthcoming permission.

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

- 6.38 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 contribution is secured by unilateral undertaking.
- 6.39 The application scheme proposes three new dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 5,400metres from Hamford Water Special Protection Area. Since the development is for 3 dwellings only, the number of additional recreational visitors would be limited and the likely effects on Hamford Water from the proposed development alone may not be significant. However, new housing development within the Zoi would be likely to increase the number of recreational visitors to Hamford Water; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.40 A unilateral undertaking has been prepared to secure this legal obligation. 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.

Public Open Space

- 6.41 Paragraph 54 of the National Planning Policy Framework (2019) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the

development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

- 6.42 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.
- 6.43 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. The outcome of the consultation is that there is a deficit of 1.33 hectares of equipped play/formal open space in the village of Tendring.
- 6.44 Due to the significant lack of provision in the area if it is felt that a contribution is justified and relevant to the planning application the contribution received would be used to upgrade and improve the play equipment and the only play area in Tendring. The play area is located on Heath Road, Tendring.

7. Conclusion

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

8. Recommendation

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

CATEGORY	TERMS
Financial contribution towards RAMS.	£125.58 per dwelling
Open Space	To fund improvements at the play area at Heath Road, Tendring

8.1 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:- 1810/19/02 A (Plot 1 - Proposed Floor Plan, Elevations), 1810/19/03 A (Plot 2 - Proposed Floor Plan, Elevations), 1810/19/04 A (Plot 3 - Proposed Floor Plan, Elevations) and Preliminary Ecological Appraisal; received 24th June 2020 and 1810/19/01, REV D (Amended Existing & Proposed Site Plan) received 4th September 2020.

Reason - For the avoidance of doubt and in the interests of proper planning.
- 3 Prior to occupation of the development, the road junction / access at its centre line shall be provided with a visibility splay with dimensions of 2.4 metres by 90 metres in both directions,

as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic from the development and retained free of any obstruction at all times.

Reason - To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety.

- 4 Prior to the occupation of the development the internal layout shall be provided in principal with amended drawing number:- 1810/19/01 Rev. D Site plan existing and proposed block plan (received 4th Sept 2020).

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety

- 5 The development shall not be occupied until such time as a car parking and turning area has been provided in principal with proposed drawing no. 1810/19/01 Rev. D. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason - To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 6 Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 4.77 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary and provided with an appropriate dropped kerb crossing of the footway/verge.

Reason - To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

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

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

- 8 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.

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

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

- 10 Prior to occupation of the proposed dwellings, 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.

- 11 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.

- 12 Prior to occupation the existing wall and hedgerow behind it located to the east front boundary shall be reduced to a height not exceeding 0.6m. The 0.6m height shall be permanently retained as such.

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

- 13 Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), no dormers shall be inserted in the north-facing roofslope of plot 1 or the east facing roofslope of plots 1 and 2 except in accordance with details which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - To protect the privacy and amenities of the occupiers of adjoining properties.

- 14 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking and re-enacting that Order) no gate, fence, wall or other means of enclosure shall be erected, constructed or placed on the open green space which encompasses either the west elevation of Plot 1 or the north elevation of Plot 3.

Reason - In the interests of visual amenity.

- 15 No development or preliminary groundworks of any kind shall take place until the applicant has secured and undertaken a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the local planning authority.

Reason - The site may be of archaeological interest.

- 16 The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason - To enable full investigation and recording of this site of archaeological importance.

- 17 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal and Great Crested Newt Survey (Robson Ecology, June 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason - To conserve and enhance Protected and Priority species and allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

- 18 An invasive non-native species protocol shall be submitted to and approved by the local planning authority. This shall include details of the containment, control and removal of the New Zealand Pygmyweed and Wall Cottoneaster present on site. The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

Reason - To allow the Local Planning Authority to discharge its duties under the Wildlife & Countryside Act 1981 as amended and the Environmental Protection Act 1990 and the Environmental Protection Act Duty of Care Regulations 1991.

- 19 No development shall take place (including any demolition, ground works, site clearance) until a Biodiversity Method Statement for Protected and Priority species has been submitted to and approved in writing by the local planning authority.

The content of the method statement shall include the following:

- a) purpose and objectives for the proposed works;
- b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- c) extent and location of proposed works shown on appropriate scale maps and plans;
- d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- e) persons responsible for implementing the works;
- f) initial aftercare and long-term maintenance (where relevant);
- g) disposal of any wastes arising from works.

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

Reason - To conserve protected and Priority species and allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended, s40 of the NERC Act 2006 (Priority habitats & species) and s17 Crime & Disorder Act 1998.

- 20 A Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;

- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason - To enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

- 21 A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

This should also demonstrate how any lighting required during the construction phase of the development will not affect features sensitive for wildlife. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason - To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

8.2 Informatives

Determination of the Application:-

8.3 Application Approved Without Amendment

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.

8.4 Highways:-

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.

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

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.

8.5 Environmental Protection:-

In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, the following should be considered:-

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- 2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.
- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.
- 6) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- 7) No materials produced as a result of the site development or clearance shall be burned on site.
- 8) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- 9) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Failure to follow the above may result in enforcement action under nuisance legislation (Environmental Protection Act 1990) or the imposition of controls on working hours (Control of Pollution Act 1974).

8.6 Legal Agreement Informative - Public Open Space:-

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 in accordance with saved Policy COM6.

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.

8.7 Anglian Water:-

Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

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:
- A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - 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
 - C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.2 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.

- 9.3 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.
- 9.4 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

- 9.5 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.
- 9.6 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).
- 9.7 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

- 9.8 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.
- 9.9 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/>.