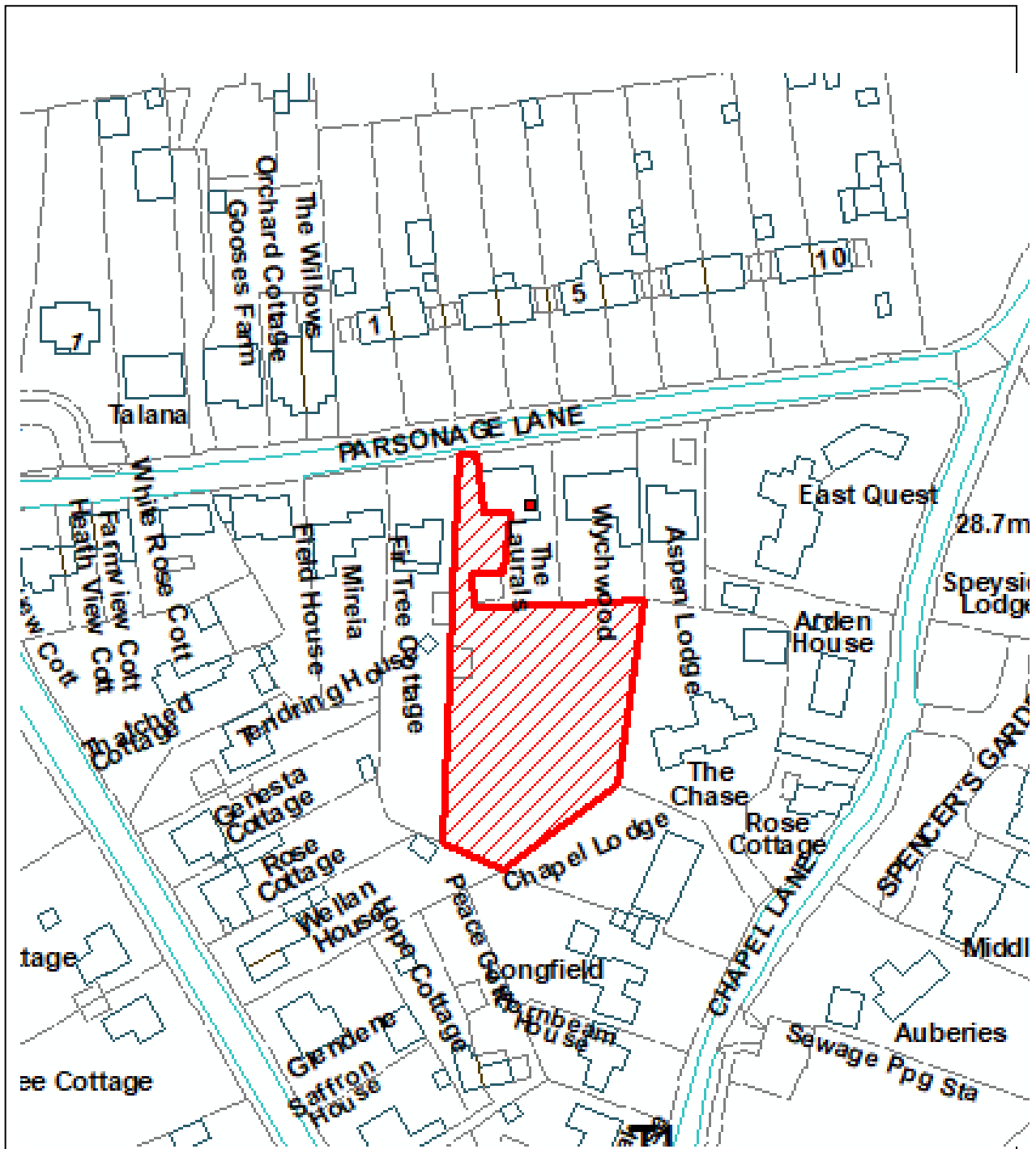


PLANNING COMMITTEE

13th April 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.1 PLANNING APPLICATION – 20/00822/FUL – THE LAURELS PARSONAGE LANE
TENDRING CLACTON ON SEA**



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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

Following receipt on 16th March 2021 of an ECC Highways plan which indicates the extent of public highway land, ECC Highways now consider that a safe means of access to the site cannot be demonstrated by virtue of the 2.4m x 90m visibility splay to the site access not being achievable within the limits of the public highway and/or land in the control of the applicant.

Accordingly, contrary to the recommendation contained within the previous Officer Committee Report, it is now recommended that the application be **refused** planning permission for the following reason:

The proposal fails to demonstrate that a safe means of access to the site can be achieved, by virtue of a 2.4m x 90m visibility splay to the site access not being deliverable within the limits of the public highway and/or land in the control of the applicant. For this reason the application is considered to be contrary to Paragraph 108 of the NPPF which seeks to ensure that safe and suitable access to a development site can be achieved for all users and contrary to saved Policy QL10 of the adopted Tendring District Local Plan 2007 and emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

ECC Highways have further advised that the visibility requirements could be reviewed upon receipt of a speed survey. Accordingly, the applicant has been advised to undertake a 7-day speed survey and based on the results of that speed survey and using the Highway Boundary information provided by Highway Records produce new drawings to confirm what visibility splays can be achieved.

At the time of updating this report, a Speed Survey Report has not been submitted or reviewed by County Highways and, as such, the recommendation remains as one for refusal on highway safety grounds. If this information is forthcoming in advance of the Meeting this will form part of the Committee Update Sheet. However, County Highways have stated that whilst the applicant could commission the additional work there is no guarantee that the required standards can be met or that the proposal will be met or that the proposal will be acceptable to the Highway Authority.

Separately, 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 could be conditioned to be retain at a height no greater than 0.6m.

1.6 Additional objections

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.

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.

A further contribution has been made by the occupiers of the neighbouring property to the west:-

“Boundary of the Laurels and Fir Tree Lodge

When this application was first considered by the planning committee, we believe there was some uncertainty over the ownership of the boundary between the Laurels and Fir Tree Lodge. We wish to confirm that the conveyance documents for Fir Tree Lodge clearly state that it is the responsibility of the owners of Fir Tree Lodge to maintain the existing larch and lap fence on the Eastern boundary of Fir Tree Lodge. Therefore, should permission be granted, we request that no works be undertaken on this boundary without our prior permission.

Access and Privacy

Access to and egress from the proposed development site still does not appear to have been adequately surveyed and we therefore support the letter from David Mercer of Wychwood, received by TDC on 1 December 2020.

The entrance to the property causes us concern as we have witnessed vans turning into the property from the direction of Chapel Lane and due to it being a tight turning, have been close to hitting our boundary fence on several occasions. We have additionally noted that the distance between the boundary of Fir Tree Lodge and the garage of the Laurels is 4.4m, which appears narrow for the number of vehicles likely to accessing the development.

We also believe that the impact of the development in relation to the number of properties planned has not been fully considered, nor the full impact on the privacy of Fir Tree Lodge. We kindly request that the committee members visit the site in person to assess these points prior to any decision being made.”

Update as of 10th March 2021

*A further contribution by **Tendring Parish Council** has been received. The Chair of the Parish Council comments that the report being submitted to committee makes the same critical error in relation to TDC's own Local Plan that the Planning Team made when presenting their case for approval first time round - and which during that meeting, they admitted was an error. The Chair comments that Tendring Green is NOT part of the settlement boundary for Tendring under the new adopted local plan, nor was it part of any recent draft local plan prior to its adoption. The Chair goes on to comment that he does not know why the Planning team are continuing to perpetuate this factual error having previously accepted it as false but it concerns me that this disregard for accuracy is an indicator of other areas of glossing over what they regard as "problems" in getting this application through. The Chair comments that to try and force through an application when knowing - and having perviously [stet] admitted - that the facts presented are incorrect leaves TDC open to subsequent action over knowingly and willingly failing to adhere to the standards expected of them.*

The Chair draws attention to, as an example, the visibility splay has been demonstrated to be nowhere near the 90m claimed in the application (it is 19m maximum to the right) as a result of

the neighbour's front wall. Asking why are TDC ignoring and glossing over this important safety matter? When put with the unanswered questions about the requirements for the width of access, this leaves the highways and access issues as a real question mark over the safety of this development.

The Chair finishes by stating that, when put together, he does not understand TDC Planning's decision to recommend an application known to be outside the development boundary and where real concerns exist about Highways and the safety of other road users.

In response to the contribution; the Late Observations for the 17th November 2020 meeting, in paragraph 6.0 confirmed the current position on the site's location in regards to the Settlement Boundary. This paragraph is repeated here:-

"The application site is located within the Tendring Green Settlement Boundary within the adopted local plan. The Emerging Plan indicates that Tendring Green will be taken out of the Settlement Boundary. The emerging plan is yet to pass through the full examination process; furthermore, the change to the settlement boundary as proposed is the subject of an unresolved objection. As such limited weight can be attributed to the plan to remove Tendring Green from the settlement boundary."

Further confirmation has since been received from the Council's Assistant Director of Strategic Planning and Place and the response is included here:-

"In the 2007 adopted Local Plan, Tendring Green is defined as a settlement in its own right in the Policy QL1 settlement hierarchy with its own settlement development boundary. Through the emerging Local Plan, the Council reviewed the situation and determined that while Tendring village should continue to be defined in the Policy SPL1 settlement hierarchy with its own settlement development boundary, Tendring Green is to be removed from the policy and the settlement development boundary is to be removed.

Whilst the Council has adopted Section 1 of the emerging Local Plan (which amongst other things sets the housing target and confirms the Garden Community development), Section 2 (which contains the new settlement hierarchy and revised settlement boundaries) remains the subject of examination with the hearings completed last week and the Inspector's conclusions still pending. Until such time that we are able to adopt Section 2 of the Local Plan, the 2007 adopted plan remains in force – albeit the weight you give to policies in the adopted and emerging plan varies on a case-by-case basis depending on pertinent issues and the guidance contained within the National Planning Policy Framework. I.e. the weight you give to emerging policies will depend on the stage of the planning process reached (which is now fairly advanced), consistency with national policy and the nature of any unresolved objections. There are objections to the removal of Tendring Green and its settlement boundary which are being considered by the Local Plan Inspector, even though the debate at the recent hearing sessions considered the settlement hierarchy and settlement boundaries in more general terms.

The reason for removing Tendring Green and other settlements including Aingers Green and Point Clear was discussed at the Local Plan examination hearings and here are links:

- a) To the technical piece of work that informed the Council's decision: [EB3.1.1 Establishing a Settlement Hierarchy 2016.pdf \(tendringdc.gov.uk\)](#)*
- b) The Council's hearing statement in which it defends the position taken: [TDC Hearing Statement - Matter 2 - Spatial Strategy.pdf \(tendringdc.gov.uk\)](#) (see paragraphs 2.2.14 to 2.2.16 in particular.*

Essentially, Tendring Green, compared to other settlements in the district is no longer considered to be a sustainable location to accommodate significant levels of development due to both its limited accessibility to shops, jobs, services and facilities and its existing size. That said, the Local Plan Inspector might conclude otherwise and until such point we get confirmation from the Inspector, we have to be sensible about how much weight can be applied.”

Summary

- 1.7 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.
- 1.8 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.
- 1.9 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.
- 1.10 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.
- 1.11 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 and/or residential amenities.
- 1.12 *However, notwithstanding the earlier recommendation, following further consideration of additional evidence, County Highways are now recommending that the application be refused on highway safety grounds by virtue of the scheme being unable to demonstrate appropriate highway visibility splays onto Parsonage Lane. .*

Recommendation: Refusal

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

The reason(s) stated in section 8.1

2. Planning Policy

2.1 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

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. 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.
- 2.3 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.
- 2.4 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.
- 2.5 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.
- 2.6 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.

2.7 In relation to housing supply:

2.8 The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

2.9 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
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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.

**ECC Highways Dept
UPDATE
16.03.2021**

Following receipt on 16th March 2021 of an ECC Highways plan which indicates the extent of public highway land, ECC Highways now consider that a safe means of access to the site cannot be demonstrated by virtue of the 2.4m x 90m visibility splay to the site access not being achievable within the limits of the public highway and/or land in the control of the applicant.

Accordingly, contrary to the recommendation contained within the previous Officer Committee Report, it is now recommended that the application be **refused** planning permission for the following reason:

The proposal fails to demonstrate that a safe means of access to the site can be achieved, by virtue of a 2.4m x

90m visibility splay to the site access not being deliverable within the limits of the public highway and/or land in the control of the applicant. For this reason the application is considered to be contrary to Paragraph 108 of the NPPF which seeks to ensure that safe and suitable access to a development site can be achieved for all users and contrary to saved Policy QL10 of the adopted Tendring District Local Plan 2007 and emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

ECC Highways have further advised that the visibility requirements could be reviewed upon receipt of a speed survey. Accordingly, the applicant has been advised to undertake a 7-day speed survey and based on the results of that speed survey and using the Highway Boundary information provided by Highway Records produce new drawings to confirm what visibility splays can be achieved.

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

- 5.1 Twenty contributions were received in response to the display of the site notice and the written public consultation **(additional comments are summarised above in Section 1 and any**

further representations will be provided as part of the Committee Update Sheet). 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	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

Fir Tree Lodge will significantly increase.		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 (1998)</i> .
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 addition 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 Whilst the Council has adopted Section 1 of the emerging Local Plan (which amongst other things sets the housing target and confirms the Garden Community development), Section 2 (which contains the new settlement hierarchy and revised settlement boundaries) remains the subject of examination with the hearings completed last week and the Inspector's conclusions still pending. Until such time that we are able to adopt Section 2 of the Local Plan, the 2007 adopted plan remains in force – albeit the weight you give to policies in the adopted and emerging plan varies on a case-by-case basis depending on pertinent issues and the guidance contained within the National Planning Policy Framework. I.e. the weight you give to emerging policies will depend on the stage of the planning process reached (which is now fairly advanced), consistency with national policy and the nature of any unresolved objections. There are objections to the removal of Tendring Green and its settlement boundary which are being considered by the Local Plan Inspector, even though the debate at the recent hearing sessions considered the settlement hierarchy and settlement boundaries in more general terms.
- 6.12 The reason for removing Tendring Green and other settlements including Aingers Green and Point Clear was discussed at the Local Plan examination hearings and here are links:
 - a) To the technical piece of work that informed the Council's decision: [EB3.1.1 Establishing a Settlement Hierarchy 2016.pdf \(tendringdc.gov.uk\)](#)
 - b) The Council's hearing statement in which it defends the position taken: [TDC Hearing Statement - Matter 2 - Spatial Strategy.pdf \(tendringdc.gov.uk\)](#) (see paragraphs 2.2.14 to 2.2.16 in particular.

- 6.13 Essentially, Tendring Green, compared to other settlements in the district is no longer considered to be a sustainable location to accommodate significant levels of development due to both its limited accessibility to shops, jobs, services and facilities and its existing size. That said, the Local Plan Inspector might conclude otherwise and until such point we get confirmation from the Inspector, we have to be sensible about how much weight can be applied to the emerging Spatial Strategy.
- 6.14 The site is located centrally within the current Development Boundary of Tendring Green therefore there it is considered, on balance, that no 'in principle' objection to the proposal can be raised, subject to the detailed considerations discussed below.

Appearance and Layout

- 6.15 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.
- 6.16 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.
- 6.17 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 distances 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.
- 6.18 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.
- 6.19 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.

- 6.20 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

- 6.21 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.
- 6.22 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.
- 6.23 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	Access and off street parking is acceptable to the Highways Authority

scene. Long or narrow driveways will be discouraged	
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

- 6.24 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.
- 6.25 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

- 6.26 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.
- 6.27 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.
- 6.28 *Following receipt on 16th March 2021 of an ECC Highways plan which indicates the extent of public highway land, ECC Highways now consider that a safe means of access to the site cannot be demonstrated by virtue of the 2.4m x 90m visibility splay to the site access not being achievable within the limits of the public highway and/or land in the control of the applicant.*
- 6.29 *Accordingly, contrary to the recommendation contained within the previous Officer Committee Report, it is now recommended that the application be **refused** planning permission for the following reason:*

The proposal fails to demonstrate that a safe means of access to the site can be achieved, by virtue of a 2.4m x 90m visibility splay to the site access not being deliverable within the limits of the public highway and/or land in the control of the applicant. For this reason the application is considered to be contrary to Paragraph 108 of the NPPF which seeks to ensure that safe and suitable access to a development site can be achieved for all users and contrary to saved Policy QL10 of the adopted Tendring District Local Plan 2007 and emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

- 6.30 *ECC Highways have further advised that the visibility requirements could be reviewed upon receipt of a speed survey. Accordingly, the applicant has been advised to undertake a 7-day speed survey and based on the results of that speed survey and using the Highway Boundary information provided by Highway Records produce new drawings to confirm what visibility splays can be achieved.*
- 6.31 *At the time of updating this report, a Speed Survey Report has not been submitted or reviewed by County Highways and, as such, the recommendation remains as one for refusal on highway safety grounds. If this information is forthcoming in advance of the Meeting this will form part of the Committee Update Sheet. However, County Highways have stated that whilst the applicant could commission the additional work there is no guarantee that the required standards can be met or that the proposal will be met or that the proposal will be acceptable to the Highway Authority.*
- 6.32 Separately, 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.
- 6.33 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 could be conditioned to be retain at a height no greater than 0.6m.

Landscaping and Biodiversity

- 6.34 Paragraph 175 of the National Planning Policy Framework requires that Local Planning Authorities "conserve and enhance biodiversity".
- 6.35 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.
- 6.36 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

- 6.37 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).
- 6.38 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.
- 6.39 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.
- 6.40 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 1 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.

- 6.41 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

- 6.42 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.
- 6.43 The Essex Historic Environment Record (HER) and Tendring Historic Environment Characterisation Project, demonstrate that the proposed development lies within an area of archaeological interest.
- 6.44 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.
- 6.45 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)

- 6.46 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.
- 6.47 The application scheme proposes three new dwellings on a site that lies within the Zone of Influence (Zol) 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 Zol 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.
- 6.48 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

- 6.49 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.
- 6.50 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.
- 6.51 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.
- 6.52 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. The contribution is secured by unilateral undertaking.

7 Conclusion

- 7.1 On balance, applying the relative weight of the adopted Local Plan spatial strategy as set against the emerging Local Plan (Part 2), the principle of residential development in this locality is supported by Local Plan policy. The proposal does not amount to any visual harm or harm to residential amenities. However, notwithstanding the earlier recommendation, following further consideration of additional evidence, County Highways are now recommending that the application be refused on highway safety grounds by virtue of the scheme being unable to

demonstrate appropriate highway visibility splays onto Parsonage Lane. The application is, therefore recommended for refusal.

8 Recommendation

The Planning Committee is recommended to refuse planning permission for the following reason:

8.1 Reason(s) for Refusal

1. *The proposal fails to demonstrate that a safe means of access to the site can be achieved, by virtue of a 2.4m x 90m visibility splay to the site access not being deliverable within the limits of the public highway and/or land in the control of the applicant. For this reason the application is considered to be contrary to Paragraph 108 of the NPPF which seeks to ensure that safe and suitable access to a development site can be achieved for all users and contrary to saved Policy QL10 of the adopted Tendring District Local Plan 2007 and emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.*

Additional Considerations

Public Sector Equality Duty (PSED)

- 8.2 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.

- 8.3 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.

- 8.4 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.

- 8.5 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Finance Implications

- 8.6 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.

- 8.7 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.

9 Background Papers

- 9.1 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/>.