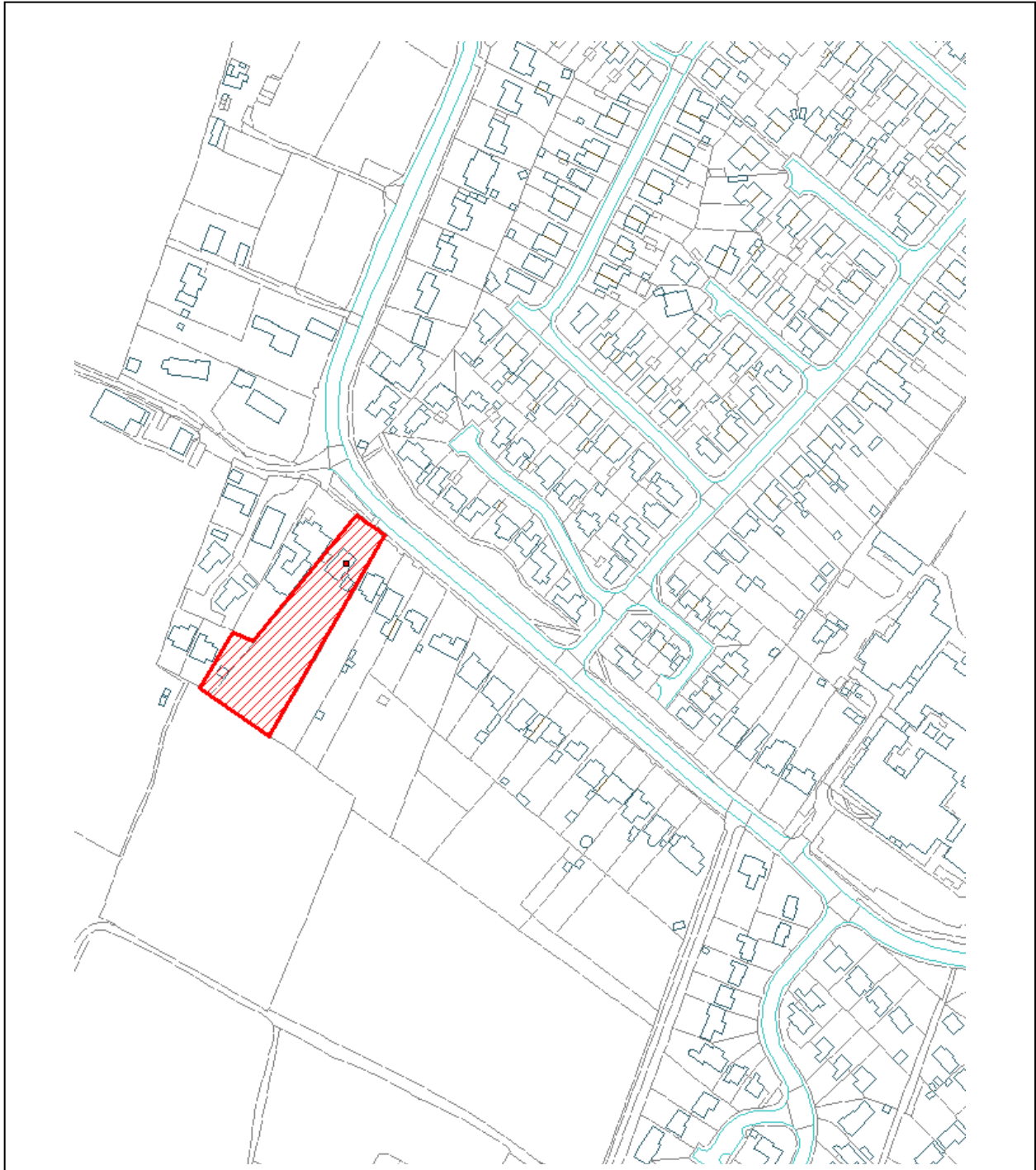


PLANNING COMMITTEE

26th October 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.3 PLANNING APPLICATION – 21/00208/FUL – LAND REAR OF STRANGERS WAY
CHURCH ROAD BRIGHTLINGSEA CO7 0QT**



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Application: 21/00208/FUL

Town / Parish: Brightlingsea Town Council

Applicant: Park Mark Ltd

Address: Land rear of Strangers Way Church Road Brightlingsea CO7 0QT

Development: Erection of 5 no. self-contained residential houses (bungalows) with associated parking, landscaping and amenity space

1. Executive Summary

- 1.1. This application has been called to Planning Committee at the request of Councillor Steady and Councillor Barry for the following reasons:
 - The proposal is contrary to the Development Plan
 - Highway and Traffic Impact
 - Adverse impact on ancient woodland
 - Is outside the development area
 - The proposal could impact on highway safety at a difficult location and where school children are regularly walking.
- 1.2. This application seeks planning permission for the erection of 5 no. self-contained residential bungalows with associated parking, landscaping and amenity space at land to the rear of Strangers Way, Church Road, Brightlingsea.
- 1.3. The site is located to the rear of the properties known as Strangers Way and Stronvar in Church Road, Brightlingsea. Church Road comprises generally of large detached buildings set on large plots. To the west of the site is a small development which was granted permission at appeal in 2017 for the erection of 4 detached bungalows to the rear of Homefield, Church Road, Brightlingsea.
- 1.4. The site is located outside of the Settlement Development Boundary as defined under Policy QL1 of the adopted 2007 Local Plan. However, the publication draft of the Local Plan includes the site within the proposed Settlement Development Boundary, with no change proposed in the most recent modifications. From the Status of the Local Plan section above the plan is at a very advanced stage of preparation, and ought to be afforded considerable weight.
- 1.5. The immediate locality is characterised by a mixture of two storey, one and a half storey and single storey dwellings. They are all detached dwellings and located on large plots, with the exception of a small development of bungalows to the rear of 'Homefield', which is considered to set a precedent for in-depth development in the locality.
- 1.6. The design, layout, access, are considered acceptable. The proposal would result in no significant material harm to residential amenity or highway safety.
- 1.7. It is considered that the proposal would not adversely affect the Ancient Woodland or any protected species.

Recommendation:

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

A. Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):

- Financial Contribution towards Open Space
- Financial Contribution towards RAMS

Subject to the conditions stated in section 8.2

B. That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

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

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

QL11	Environmental Impacts and Compatibility of Uses (part superseded)
QL12	Planning Obligations
HG7	Residential Densities
HG9	Private Amenity Space
COM6	Provision of Recreational Open Space for New Residential Development
COM23	General Pollution
EN1	Landscape Character
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN29	Archaeology
TR1A	Development Affecting Highways
TR3A	Provision for Walking
TR5	Provision for Cycling
TR7	Vehicle Parking at New Development

*Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)
Relevant Section 1 Policies (adopted 26 January 2021)*

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP6 Infrastructure and Connectivity
- SP7 Place Shaping Principles

Relevant Section 2 Policies (emerging)

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP8 Backland Residential Development
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL7 Archaeology
- CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex Design Guide

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)

Essex County Council Development Management Policies 2011

Essex County Council Parking Standards Design and Good Practice Guide 2009

Tendring Provision of Open Recreational Open Space for New Development SPD 2008 (Open Space and Play SPD)

Status of the Local Plan

Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).

The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.

Paragraph 48 of the Framework 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 the policies of the Framework. In this regard 'Proposed Modifications' to emerging Section 2 of the 2013-33 Local Plan which contains more specific policies and proposals for Tendring has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29th June 2021. The Council held a six week public consultation on the Main Modifications and associated documents, which began on 16th July 2021. The consultation ran for just over 6 weeks, closing at 5pm on 31st August 2021, following which adoption is expected later this year. Section 2 will join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.

In relation to housing supply:

The Framework requires Councils 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, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, the 'tilted balance' at paragraph 11 d) ii) of the Framework is engaged. This requires applications for housing development be granted permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Following the adoption of Section 1 of the 2013-33 Local Plan and the Council's 'Objectively Assessed housing Need' of 550 dwellings per annum there is no housing shortfall. The Council is able to report a comfortable surplus of housing land supply over the 5 year requirement. The 'tilted balance' at paragraph 11 d) ii) of the Framework does not therefore apply to applications for housing.

3. Relevant Planning History

21/00168/FUL	Proposed erection of a single storey	Approved	20.04.2021
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rear extension, two storey side extension and roof alterations.

4. Consultations

Woodland Trust
07.04.2021

Objection - detrimental impacts to Lodge wood

Ancient Woodland

Natural England and the Forestry Commission defines ancient woodland "as an irreplaceable habitat [which] is important for its: wildlife (which include rare and threatened species); soils; recreational value; cultural, historical and landscape value [which] has been wooded continuously since at least 1600AD."

It includes: "Ancient semi-natural woodland [ASNW] mainly made up of trees and shrubs native to the site, usually arising from natural regeneration

Plantations on ancient woodland sites - [PAWS] replanted with conifer or broadleaved trees that retain ancient woodland features, such as undisturbed soil, ground flora and fungi"

Damage to Ancient Woodland

The Trust objects to planning application 21/00208/FUL on the basis of damage to Lodge wood (grid ref: TM07941777), an Ancient Semi Natural Woodland designated on Natural England's Ancient Woodland Inventory (AWI).

Planning Policy

National Planning Policy Framework, paragraph 175 states: "When determining planning applications, local planning authorities should apply the following principles:

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;

Footnote 58, defines exceptional reasons as follows: "For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat." There is no wholly exceptional reason for the development in this location and as such this development should be refused on the grounds it does not comply with national planning policy.

Tending Local Plan 2007

Enhancement of the Natural Environment and Landscape

6.51a states that It is important that there is no further loss of ancient trees and hedges through development pressures, mismanagement or poor practise. This Council therefore feels strongly that any development that would result in the loss of or damage to such hedges and trees will not be granted planning permission. To summarise, planning permission will not be granted for development that would have an adverse impact upon the physical appearance, landscape character or historic or archaeological interest of Historic Landscapes, including the ancient woodlands, trees, hedgerows and other physical components which are essential features of these landscapes. These landscapes are protected by policy EN1.

Policy EN1 - Landscape Character

The quality of the district's landscape and its distinctive local character will be protected and, where possible, enhanced. Any development which would significantly harm landscape character or quality will not be permitted. Development control will seek in particular to conserve the following natural and manmade features which contribute to local distinctiveness:

- estuaries and rivers, and the undeveloped coast;
- skylines and prominent views, including those of ridge tops and plateau edges;
- the settings and character of settlements and of attractive and/or vernacular buildings within the landscape;
- historic landscapes and listed parks and gardens, ancient woodlands, and other important woodland, hedgerows and trees;

Policy EN6 - Biodiversity

Development proposals will not be granted planning permission unless the existing local biodiversity and geodiversity is protected and enhanced. In exceptional circumstances, where the planning benefits are considered to outweigh the protection or enhancement of local biodiversity and geodiversity, appropriate compensating measures to outweigh the harm caused by the development must be provided. Where appropriate, conditions or planning obligations will be sought to protect the biodiversity interest of the site and to provide appropriate compensatory or mitigation measures and long term site management, as necessary

The benefits of the development are not exceptional and appropriate mitigation and compensation does not exist due to the irreplaceable nature of ancient woodland. Where an application involves the loss or deterioration of irreplaceable habitats, such as ancient woodland, net gains for biodiversity cannot possibly be achieved.

Impacts to Ancient Woodland

Natural England has identified the impacts of development on ancient woodland or veteran trees within their standing advice. This guidance should be considered as Natural England's position with regards to development impacting ancient woodland.

"Nearby development can [also] have an indirect impact on ancient woodland or veteran trees and the species they support. These can include:

- breaking up or destroying connections between woodlands and veteran trees
- reducing the amount of semi-natural habitats next to ancient woodland and other habitats
- increasing the amount of pollution, including dust
- increasing disturbance to wildlife from additional traffic and visitors
- increasing light pollution
- increasing damaging activities like fly-tipping and the impact of domestic pets
- changing the landscape character of the area"

When land use is intensified such as in this situation, plant and animal populations are exposed to environmental impacts from the outside of a woodland. In particular, the habitats become more vulnerable to the outside influences, or edge effects, that result from the adjacent land's change of use. These can impact cumulatively on ancient woodland - this is much more damaging than individual effects.

We are specifically concerned about the following impacts to the ancient woodland:

Intensification of the recreational activity of humans and their pets can result in disturbance to breeding birds, vegetation damage, trampling, litter, and fire damage.

Fragmentation as a result of the separation of adjacent semi-natural habitats, such as small wooded areas, grassland, hedgerows, individual trees and wetland habitats.

Noise, light and dust pollution occurring from adjacent development, during both construction and operational phases.

The ecological report does not address the potential loss of functional connectivity and foraging habitat for light-sensitive bat species as a result of inappropriate lighting at the woodland edge, despite acknowledgement that Lodge wood itself is 'likely to provide good conditions for foraging bats'. Lighting is only referred to in the context of bat box positioning.

Where the wood edge overhangs public areas, trees can become safety issues and be indiscriminately lopped/felled, resulting in a reduction of the woodland canopy and threatening the long-term retention of such trees.

Adverse hydrological impacts can occur where the introduction of hard-standing areas and water run-offs affect the quality and quantity of surface and ground water. This can result in the introduction of harmful pollutants/contaminants into the woodland.

Development can provide further sources of non-native and/or invasive plant species and aids their colonisation of the woodland;

Where gardens abut woodland or the site is readily accessible to nearby housing, it gives the opportunity for garden waste to be dumped in woodland and for adjacent landowners to extend garden areas into the woodland. It can also create pressure to fell boundary trees because of shade and leaf fall and interference with TV reception. It also forces boundary trees to be put into tree safety inspection zones resulting costs for neighbours and increasingly comprehensive felling.

W1 (as identified in the Arboricultural report) is noted as part of Lodge wood; comments on shading and light suggested that there would be a 'slight loss to midday sunlight reaching rear amenity spaces during summer months'. This exacerbates concerns about felling pressure from residents and demonstrates the inappropriate proximity of plots to the woodland.

Any effect of development can impact cumulatively on ancient woodland - this is much more damaging than individual effects.

The site plan and applicant's statements indicate at least three bungalows and associated hardstanding located within 11m of Lodge wood.

The 'acceptability' of this reduced buffer zone appears to be based on the applicants argument that there is a lack of certain features such as boundary edges or wood bank systems, and that the woodland edge is in poor condition having been subject to 'gradual erosion'.

This assertion is contrary to Natural England's standing advice which states that "a woodland in poor condition can be improved with good management and development proposals should enhance the condition of existing ancient woodland, where appropriate. Where a proposal involves the loss of ancient woodland, you should not take account of the existing condition of the ancient woodland when you assess the merits of the

development proposal. Its existing condition is not a reason to give permission for development."

In addition, features such as boundary edges or wood bank systems are only one of many potential ecological and historical indicators of ancient woodland status. As Lodge wood is included on the Ancient Woodland Inventory, Natural England consider this site to be ancient therefore, the Council should fully adhere to this classification in terms of planning policy.

As stated in the ecological report, the applicant intends to carry out native tree/shrub planting 'along the woodland edge'. Gardens associated with the bungalow plots extend southwards towards Lodge wood and appear to comprise a large part of the 11m buffer based on the site plan; as such, this suggests that only a thin margin of hedgerow planting is intended to protect the woodland edge.

Standing advice clarifies that any buffer zones should not include gardens or sustainable drainage schemes and should contribute to wider ecological networks. As such, the current proposals are unacceptable.

Mitigation

Detrimental edge effects have been shown to penetrate woodland causing changes in ancient woodland characteristics that extend up to three times the canopy height in from the forest edges. As such, it is necessary for mitigation to be considered to alleviate such impacts.

Natural England's standing advice for ancient woodland, states: "Mitigation measures will depend on the development but could include:

- improving the condition of the woodland
- putting up screening barriers to protect woodland or ancient and veteran trees from dust and pollution
- noise or light reduction measures
- protecting ancient and veteran trees by designing open space around them
- identifying and protecting trees that could become ancient and veteran trees in the future
- rerouting footpaths
- removing invasive species
- buffer zones"

Additional mitigation approaches are also outlined in our Planners' Manual; these measures would help ensure that the development meets policy requirement and guidance and include:

- Non-invasive root investigation for ancient trees and protection beyond the limit of the usual investigative tools.
- Measures to control noise, dust and other forms of water and airborne pollution

- Sympathetic design and use of appropriate lighting to avoid light pollution.
- Producing and funding an access management plan for the woodland, and/or providing alternative natural greenspace to reduce additional visitor pressure.
- Implementation of an appropriate monitoring plan to ensure that proposed measures are effective over the long term and accompanied by contingencies should any conservation objectives not be met.

Buffering

This development should allow for a buffer zone of at least 15 metres to avoid root damage and to allow for the effect of pollution from the development. The council should ensure that the width of the proposed buffer is adequate to protect the adjacent ancient woodland. The buffer should be planted before construction commences on site. HERAS fencing fitted with acoustic and dust screening measures should also be put in place during construction to ensure that the buffer zone does not suffer from encroachment of construction vehicles/stockpiles, and to limit the effects of other indirect impacts.

This is backed up by Natural England's standing advice which states that "you should have a buffer zone of at least 15 metres to avoid root damage. Where assessment shows other impacts are likely to extend beyond this distance, you're likely to need a larger buffer zone.

Natural England goes on to state:

Where possible, a buffer zone should:

- contribute to wider ecological networks
- be part of the green infrastructure of the area
- It should consist of semi-natural habitats such as:
 - woodland
 - a mix of scrub, grassland, heathland and wetland planting
- You should plant buffer zones with local and appropriate native species.
- You should consider if access is appropriate and can allow access to buffer zones if the habitat is not harmed by trampling.
- You should avoid including gardens in buffer zones.
- You should avoid sustainable drainage schemes unless:
 - they respect root protection areas
 - any change to the water table does not adversely affect ancient woodland or ancient and veteran trees

Conclusion

The Trust objects to this planning application unless the

applicant commits to a strict 15m buffer between any aspect of the development (including gardens) and Lodge wood.

TDC Tree & Landscape Officer
18.03.2021

There are no trees or other vegetation on the application site as the site has been cleared of all vegetation.

The application site is immediately adjacent to Lodge Wood which is recorded on the inventory of ancient woodland. Consequently, the applicant will need to consider the national guidance produced by the Forestry Commission and Natural England entitled 'Standing Advice on Ancient Woodland and Veteran Trees'.

One of the key elements of the standing advice will be the creation of a buffer zone with a minimum distance of 15m between the development and the ancient woodland.

Information demonstrating that the development proposal will not cause harm to the ancient woodland must be provided prior to the determination of the application

The applicant will need to provide details of soft landscaping to soften screen and enhance the appearance of the development and potentially to help improve the condition of the ancient woodland

TDC Tree & Landscape Officer
21.09.2021

Further to previous comments:

Natural England have confirmed that the wooded area adjacent to the application site is not 'ancient' and that it will be removed from their inventory of ancient woodland. Consequently it appears that this woodland is no longer an active constraint on the development potential of the land.

ECC Highways Dept
24.06.2021 & 05.10.2021

The information that was submitted in association with the application has been fully considered by the Highway Authority. A site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated April 2019.

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

1. 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:

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- wheel and underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM 1.

2. Prior to occupation of the development, the road junction / access at its centre line shall be provided with a minimum visibility splay with dimensions of 2.4 metres by 70 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 and retained free of 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 in accordance with policy DM1.

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

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

4. Prior to the occupation of the proposed development the internal road and parking layout shall be provided in principal and accord with Drawing Number:
APD/0049/PA003 Rev. B - Amended Site Layout Plan.

Reason: To ensure that vehicles using the site

access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1.

5. Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

Note: As per the Essex Parking Standards (Parking Standards: Design and Good Practice, Sept 2009) 6 metres should be provided behind each parking space to allow for manoeuvring.

6. 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 in accordance with policy DM1.

7. Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 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 in accordance with policy DM1.

8. Prior to occupation of the development the vehicular access for the host dwelling shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 4.5 metres (5 low kerbs), shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with

policy DM1.

9. The existing access for the host dwelling shown on the site layout plan shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / cycleway / kerbing immediately the proposed new access is brought into first beneficial use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety in accordance with policy DM1.

10. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

11. All single garages should have a minimum internal measurement of 7m x 3m

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8.

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

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

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative

It is noted that the new vehicular access for the

host dwelling appears to impact directly on the existing telegraph pole and support cables adjacent to the highway boundary; one of the support cables appears to be within the alignment of the new driveway. The support cables cannot simply be moved or even removed as it will impact on the structure of the telegraph pole and in-turn compromise highway safety. The agent/applicant needs to discuss this with the respective Utility Company to see what would be acceptable to them in relation to the driveway access and what potential costs would be entailed to possibly re-locate the apparatus which would be at the applicants expense.

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 - Development Management Team, Ardleigh Depot, Harwich Road, Ardleigh, Colchester, CO7 7LT

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.

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.

TDC Environmental
Protection
05.03.2021

Environmental Protection have the following comments to make -

Construction Method Statement: In order to minimise potential nuisance to nearby existing residents caused by construction and any demolition works, Environmental Protection ask that the following is submitted:

Prior to the commencement of any construction or demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, Environmental Protection. This should at minimum include the following where applicable.

Noise Control

- 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.
- 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.
- 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.
- Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 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.

Emission Control

- 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.
- No materials produced as a result of the site development or clearance shall be burned on site.
- 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.

- All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Reason: Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them 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).

Contaminated Land

Given the historic agricultural use of the land adjoining the proposed site, we are requesting that should the application be approved, a watching brief is conditioned and undertaken by the applicant, and that the Local Authority are contacted in the event of unexpected ground conditions being encountered during development; ensuring the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

Minimum requirements for dealing with unexpected ground conditions being encountered during construction.

- a. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
- b. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
- c. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which

- contaminated materials are present.
- d. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
 - e. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
 - f. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
 - g. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
 - h. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
 - i. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
 - j. A photographic record will be made of relevant observations.
 - k. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be:
 - o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment;
 - o treatment of material on site to meet compliance targets so it can be re-used;
 - o removal from site to a suitably licensed landfill or permitted treatment facility.
 - l. A Verification Report will be produced for the work.

Reason: to protect site workers and end users

Lighting

Any lighting of the development shall be located, designed and directed [or screened] so that it does not cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/cause unnecessary

light pollution outside the site boundary. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers

Reason: to protect the existing residential amenity

TDC UU Open Spaces
24.03.2021

There is currently a deficit of 13.68 hectares of play and formal open space in Brightlingsea.

Any additional development in the Brightlingsea area will increase demand on already stretched play facilities and formal open space.

Recommendation

A contribution towards increasing the play or facilities and formal open space is relevant and justified to the planning application.

Any contribution would be used to make improvements Western Promenade or associated area.

TDC Building Control and Access
Officer
14.04.2021

No adverse comments at this time.

Essex County Council Archaeology
01.04.2021 & 21.09.2021

The Essex Historic Environment Record (HER) shows that the proposed development lies within an area of archaeological interest.

The proposed development lies adjacent to an area identified on the Essex Historic Environment Record as containing evidence for archaeological activity (EHER 2234). The record of cropmarks shows enclosures, trackways and ringditches in the adjacent fields which extend across a large area. Excavations at the nearby Moverons Pit have revealed significant multi-period archaeological remains including prehistoric ritual activity and Saxon settlement. The potential for archaeological remains within the development site is high and the impact of the development upon them should be assessed with an archaeological field evaluation.

The following recommendations are made in line with the National Planning Policy Framework:

RECOMMENDATION: Archaeological trial trenching and excavation

1. No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and

approved in writing by the local planning authority.

2. No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined in 1 above.
3. 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 for recommendation

The Essex HER shows that the proposed development is located within an area with potential for below ground archaeological deposits. The development would result in harm to non-designated heritage assets with archaeological interest.

Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. The archaeological work will comprise initial trial trenching evaluation. A brief outlining the level of archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

Natural England
01.07.2021

It has been identified that this development falls within the 'Zone of Influence' (ZoI) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS); see our recent advice to your authority on this issue (our ref: 244199, dated 16th August 2018) for further information.

In the context of your duty as competent authority under the provisions of the Habitats Regulations, it is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Tendring District Council working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic

measures to address such effects, which will be costed and funded through developer contributions.

We therefore advise that you consider, in line with our recent advice, whether this proposal falls within scope of the RAMS as 'relevant development'. Where it does, this scale of development would fall below that at which Natural England would offer bespoke advice on this issue. However, in such cases we advise that you must undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation; you should not grant permission until such time as the HRA has been undertaken and the conclusions confirmed.

The planning application currently shows means of foul water disposal are unknown. If this development will not be connected to the mains sewer, please refer to the attached guidance note for potential impacts to the Colne Estuary from discharges.

Ancient Woodland

Following the submission of additional information and that provided by cartographic colleagues the area in question, was not present as woodland on the Epoch 1 map of 1874-5. The area in question is shown as open land. Therefore, this area is not ancient woodland and Natural England will remove it from the ancient woodland inventory.

Please note there will be a delay of approximately 2 months before this amendment appears on the MAGIC website. However, in the meantime and for planning purposes, please take this email as evidence that the area in question does not constitute ancient woodland.

However, the woodland area in question first appears on the 1923 Epoch 3 OS map, so has been extant for at least 100 years and constitutes priority deciduous woodland habitat, which buffers the ancient woodland site and is valuable in the context of the local habitat network.

5. **Representations**

5.1 47 letters of objection have been received which raise the following concerns:

- Loss of privacy
- Light Pollution
- Noise Pollution
- Overdevelopment
- All trees have been removed
- The sports ground at the rear already causes indiscriminate pavement and grass verge parking when it is used which is a danger to passing pedestrians.
- The very narrow access route demonstrates as to why the proposed development is in a crowded and unsuitable location

- The proposed properties are on a very confined plot and it is only with small and odd shaped gardens that they have been fitted onto the site plan.
- Could set a precedent for future building and effectively bringing the urban landscape closer to the open fields, woodland and the nature reserve.
- The development would negatively impact on badgers and other wildlife
- The development is out of character of this part of Church Road and would set a precedent for further backland development
- The development would increase traffic on the corner of Strangers Corner, a place where school children regularly cross to go between school sites.
- The proposed development will reduce the stock of large family homes for future generations
- Adverse impact on ancient woodland
- The development would have a detrimental effect on wildlife
- Vehicles waiting to turn right into the development would block the road on a blind corner and represent a very significant risk of an accident.
- The construction of these properties would cause light, noise and air pollution in very close proximity to the ancient woodland causing serious disruption to wildlife including bats and badgers.
- Urban encroachment onto such high quality natural habitats is an ever increasing problem that is not justified in the circumstances
- Limited parking means that visiting vehicles will park out on the main road and cause additional traffic disruption.
- The well documented removal of the habitat on this site in August 2020 before the ecological assessment or the Arboricultural assessment leaves TDC unable to provide a base-line from which they can establish biodiversity net gain post development. TDC will therefore be unable to discharge their statutory duty as referent to under paragraph 170(d) of the NPPF (2019) and Policy EN6b of the Local Plan.
- Another development for 36 retirement units, 5 houses and 104 holiday lodges have just been granted permission, no more are needed.
- Tendring already has a 6 year housing land supply.
- Loss of outdoor space for the Care Home
- The local schools and GP surgery are already overstretched.
- The only road into/out of the town cannot cope with the number of vehicles using it in rush hour periods.

5.2 17 letters of support have been raised which support the applications for the following reasons:

- Provides affordable housing when there is a clear shortage and high demand in Brightlingsea
- New access road will require additional dropped kerbs, which will prevent cars from parking close to the corner.
- The woodland will be unaffected and not touched, the only trees that have been removed were from the previous home owners garden.
- As the properties being built are bungalows and will be surrounded by a fence, neighbouring properties cannot be overlooked.
- The development is not out of character with the area, as a project of the same nature was built to the other side of the Stronvar Care Home 2/3 years ago.

5.3 **Brightlingsea Town Council** – object to the application on the basis that the proposed does not accord with the NPPF, it adversely impacts on ancient woodland, it does not comply with Part 1 of the adopted TDC Local Plan particularly Policy PL8 and it is outside the development area. The proposal could impact highway safety at a difficult location and where school children are regularly walking. The Committee were dismayed that both the Arboricultural Report and the Ecological Report submitted with the application were

both written after the trees were cleared from the site. A member of the public questioned whether the tree felling constituted more than 5 cubic meters of trees which would have required a Forestry Commission licence.

6. Assessment

Site Context

- 6.1. The site is located to the rear of the properties known as 'Strangers Way' and 'Stronvar' in Church Road, Brightlingsea. Church Road comprises generally of large detached buildings set on large plots. To the west of the site is a small development which was granted permission at appeal in 2017 for the erection of 4 detached bungalows to the rear of Homefield, Church Road, Brightlingsea.
- 6.2. To the north-west of the site lies Stronvar, a two-storey building with a large single storey rear extension, used as a Care Home. On the opposite side of the site is 'Shepards Croft', which is a one and a half storey detached dwelling. To the rear of the site lies woodland known as Lodge Wood.

Planning History

- 6.3. Planning Application 16/01385/FUL sought permission for the erection of 4 detached bungalows to the rear of Homefield, Church Road, Brightlingsea. That application was refused by the Planning Committee but subsequently allowed on Appeal under appeal reference APP/P1560/W/17/3169862.
- 6.4. More recently, planning permission was granted for the erection of a single storey rear extension, two storey side extension and roof alterations to the existing dwelling under reference number 21/00168/FUL. This was amended under application 21/01335/FUL, which granted permission for the change of external material due to supply issues and re-instating second floor rear facing roof windows that were omitted on submission drawings by mistake.

Proposal

- 6.5. This application seeks planning permission for the erection of 5no. self-contained residential bungalows with associated parking, landscaping and amenity space at land to the rear of Strangers Way, Church Road, Brightlingsea. The application originally proposed 5 x 3 bedroom dwellings, but subsequently reduced to 3 x 3 bedroom dwellings and 2 x 2 bedroom dwellings.
- 6.6. The proposed dwellings are to be accessed via a new access drive between Strangers Way and Shepard's Croft. A new brick wall is proposed adjacent to the boundary with the proposed access road and Strangers Way, this will be 1.8 metres towards the rear of the site and 0.9 metres at the front of the site. A 1.8 metres close-boarded fence is proposed along all other boundaries with the exception of the rear boundary with the woodland where a native hedgerow is proposed.
- 6.7. All of the 5 proposed dwellings are single storey in height. Three of the proposed dwellings have 3 bedrooms and two have 2 bedrooms. The proposed materials are a mixture of brickwork and render with concrete tiled roofs.

Principle of Development

- 6.8. Adopted Policy SP3 sets out the Spatial Strategy for North Essex. The Council's Spatial Strategy is to direct most housing developments to the Strategic Urban Settlements and

the Tendring Colchester Borders Garden Community (TCBGC). To encourage sustainable patterns of growth and carefully control urban sprawl, each settlement listed under emerging Policy SPL1 (with the exception of the TCBGC) is defined under Policy SPL2 with a 'Settlement Development Boundary' (SDB). Outside of SDBs, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy, and any other relevant policies in the plan. In general terms, development outside of defined Settlement Development Boundaries will be the subject of strict control to protect and enhance the character and openness of the countryside.

- 6.9. The site is located outside of the SDB as defined under Policy QL1 of the adopted 2007 Local Plan. However, Policy QL1 was superseded by Policy SP3 when Part 1 of the 2013-33 Local Plan was adopted. Emerging Policy SPL1 defines Brightlingsea as a 'Smaller Urban Settlement' an area which *'will accommodate the second largest proportion of the District's increase in housing stock over the plan period'*. Furthermore, the publication draft of the Local Plan includes the site within the proposed SDB, with no change proposed in the most recent modifications which have been out to consultation. From the Status of the Local Plan section above the plan is at a very advanced stage of preparation, and ought to be afforded considerable weight. On this basis, it is considered that the proposal accords with the spatial approach to housing delivery and is therefore acceptable in principle.

Character, Appearance and Layout

- 6.10. Policy SP7 sets out the place shaping principles all new development should follow. The first bullet of this policy states that development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Emerging Policy LP4(h) states that new housing development should deliver new dwellings that are designed to high standards of architecture, which respect local character and which, together with a well-considered site layout, create a unique sense of place. Paragraph 126 of the Framework states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work, and helps make development acceptable to communities. Paragraph 130 of the Framework requires developments are sympathetic to local character and history, including the surrounding built environment, and are visually attractive as a result of good architecture.
- 6.11. The immediate locality is characterised by a mixture of two storey, one and a half storey and single storey dwellings. They are all detached dwellings and located on large plots, with the exception the small development of bungalows to the rear of 'Homefield' (see Planning History). Given that appeal decision it is considered that the principle of backland development in the locality has been accepted.
- 6.12. Policy LP8 of the Emerging Plan states that 'proposals for the residential development of "backland" sites must comply with the following criteria:
- a) where the development would involve the net loss of private amenity space serving an existing dwelling, that dwelling must be left with a sufficient area of private amenity space having regard to the standards in this Local Plan;
 - b) a safe and convenient means of vehicular and pedestrian access/egress must be provided that does not cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will not be permitted;
 - c) the proposal must avoid "tandem" development using a shared access;

- d) the site must 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;
 - e) the site must not be on the edge of defined settlements where likely to produce a hard urban edge or other form of development out of character in its particular setting; and
 - f) the proposal must not be out of character with the area or set a harmful precedent for other similar forms of development.
- 6.13. With regard to criteria a) the proposal will result in loss of amenity space to Strangers Way, which also has permission for extensions and alterations. Once the extensions have been completed 350 square metres of private amenity space would remain at the rear of Strangers Way which is considered more than adequate and meets the requirements of Policy HG9. Each of the proposed dwellings is providing with private amenity space in excess of 100 square metres, which meets the requirements of Policy HG9 of the Saved Local Plan.
- 6.14. The proposal does not involve 'tandem' development using a shared access and it does not comprise of 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. Therefore criteria c) and d) will be met.
- 6.15. In relation to criteria e) the proposal is on the edge of a defined settlement and will provide a hard urban edge; however given the adjacent development to the rear of Homefield it is not considered that this would be detrimental to the surrounding area. Furthermore, the rear boundary of the site is likely to be screened by wider views by the existing ancient woodland. With regards to criteria f) it is considered that the Homefield development has already set a precedent for backland development in the area.
- 6.16. Concerns have been raised that the proposal represents overdevelopment of the site. Nevertheless, sufficient space around dwellings and between the boundaries would remain to ensure that the proposal complies with the requirements of adopted Policy HG14 and emerging Policy LP4. The proposal would make more efficient use of the site, consistent with Paragraph 124 of the Framework, and, because it would not be at odds with the overall character and appearance of the area, it would accord with the overall thrust of saved Policy HG7 and emerging Policy LP3 in relation to density.

Highway Safety/Parking

- 6.17. It is proposed that the existing access would be repositioned to serve the proposed dwellings and a new access will be created directly onto Church Road to serve the existing dwelling.
- 6.18. ECC Highways been consulted on the proposal and consider it to be acceptable subject to conditions to cover the following: a Construction Management Plan; visibility splays (vehicular and pedestrian); provision of a vehicular turning facility; no unbound material to be used within 6 metres of the highway boundary; width of the proposed private drive; the provision of vehicular access for the existing dwelling; the existing access being permanently closed; no surface water discharge onto the Highway and provision of Residential Travel Information Pack.
- 6.19. Conditions regarding the internal road layout and garage sizes are also recommended, but these are not considered necessary as compliance is shown on the approved plans. Informatives are also suggested regarding the existing telegraph pole and support cable, to advise that contact is made with the relevant utility company as these cannot simply be

removed and to advise that any works within the Highway need to be agreed separately with the Highway Authority.

- 6.20. Plots 1, 3, 4 and 5 are provided with a garage, which complies with the adopted parking standards and 2 no. additional spaces, making a total of 3 parking spaces, which is in excess of the 2 no. parking spaces required. Plot No. 2 is provided with a garage which complies with the adopted Parking Standards and one additional space, which meets the parking requirements.

Impact on Residential Amenity

- 6.21. A number of concerns have been raised with regard to the impact on neighbour's amenities in particular; loss of privacy; light pollution and noise pollution.
- 6.22. The proposed dwellings are single storey in height and the proposed boundary treatment is a 1.8 metre close boarded fence. A condition is imposed to ensure that the boundary treatments are erected prior to first occupation of the proposed dwellings and retained in such form. It is, therefore considered that subject to such conditions the proposal would not have any adverse impact on neighbour's amenities in terms of overlooking.
- 6.23. The proposal will create residential activity in an area to the rear of existing properties where there is currently limited activity. This in itself will result in some adverse impact on the neighbouring amenity. However, given that the proposal is for 5 dwellings it is considered that the impact would not be sufficient to warrant a reason for refusal, especially as they are located to the rear of the site, away from the rear elevations of neighbouring properties.

Biodiversity/Ecology

- 6.24. Concerns have been raised regarding the impact of the proposal on loss of biodiversity and adverse impact on the ecology. This is in respect of the site itself and the surrounding area.
- 6.25. Unfortunately, at the time of the Planning Officers visit the site had been cleared, and there was no potential of any protected species on the site. If any protected species were harmed during the clearance of the site this would be a criminal offence and is not a matter for consideration in this application.
- 6.26. However, in support of the application a Phase 1 Habitat Survey was submitted, this is dated January 2021 from the photographs contained within this report it is clear that this was undertaken at a stage when some of the trees had been removed. This report found no evidence of, or potential for any legally protected species. But suggests the following mitigation measures:
- Any work that could impact an active nest (including building demolition, tree work, site clearance) will be undertaken between September and February inclusive, to avoid the nesting period. If this is not possible, an ecologist can carry out a check for active nests immediately prior to work commencing.
 - Four bat roost features (either externally mounted or integrated) such as bat bricks, tiles or tubes to be installed on the southern or eastern aspect of walls or roofs, above 2 metres, away from external lighting, with a clear 1 metre drop below and a clear flight line towards vegetation.
 - Three sparrow terraces installed above 2 metres on either northern or eastern walls.
 - Three open-fronted bird boxes targeting dunnock, robin, spotted flycatcher and grey wagtail in sheltered positions in boundary shrubs/trees or on buildings.

It is proposed that these mitigation measures will be secured by planning condition and this will ensure compliance with the requirement for measurable "biodiversity net-gain" and

provide new habitat opportunities in accordance with Paragraph 174(d) of the National Planning Policy Framework 2019 and Tendring Local Plan policies.

Impact on Ancient Woodland

- 6.27. To the rear of the site lies Lodge Wood, originally the whole area was designated as ancient woodland, as shaded in green below.



- 6.28. The original consultation response that was received from Natural England, The Woodland Trust and the Council's Landscape Officer advised that in accordance with the national guidance produced by the Forestry Commission and Natural England entitled 'Standing Advice on Ancient Woodland and Veteran Trees', a buffer zone with a minimum distance of 15 metres between the development and the ancient woodland is required. Following these consultation responses, further information was submitted on behalf of the applicant, which sought to demonstrate that the area outlined in red below was not ancient woodland.



- 6.29. Following the submission of this information Natural England provided updated comments that stated *'the area in question, was not present as woodland on the Epoch 1 map of 1874-5. The area in question is shown as open land. Therefore this area is not ancient woodland and Natural England will remove it from the ancient woodland inventory'*. The removal of this area of land as ancient woodland results in a buffer of approx. 125 metres between the designated ancient woodland and the development site, which is significantly in excess of the required 15 metres.
- 6.30. Although part of the woodland is no longer designated as ancient woodland it first appears on the 1923 Epoch 3 OS map, so has been extant for at least 100 years and constitutes priority deciduous woodland habitat, which buffers the ancient woodland site and is valuable in the context of the local habitat network. This application is supported by an Arboricultural Assessment which demonstrates that the proposal can take place without any adverse impact on the existing trees in the woodland.

RAMS

- 6.31. The site is situated within the 'Zone of Influence' of internationally important sites for biodiversity covered by the Essex Coast RAMS SPD, which requires a financial contribution to fund mitigation measures. A Unilateral Undertaking has been completed to

secure the necessary contribution, in accordance with saved Policy QL12, adopted Policy SP2, and the RAMS SPD. The Council’s Habitats Regulation Assessment has concluded that, with the mitigation, the project would not have an Adverse Effect on the Integrity of the sites included within the Essex Coast RAMS.

Open Space

6.32. The Council has identified a deficit of 13.68 hectares of play and formal open space in Brightlingsea. To ensure that local play areas are able to cope with the additional usage from the development it is considered necessary to upgrade and increase the play provision available at Western Promenade – a financial contribution is recommended. Such a contribution meets the tests under Paragraph 57 of the Framework, and the necessary Unilateral Undertaking has been completed. The proposal therefore complies with saved Policies COM6 and QL12, emerging Policy HP5 and the Open Space and Play SPD.

Other Matters

6.33. The proposed development lies adjacent to an area identified on the Essex Historic Environment Record as containing evidence for archaeological activity (EHER 2234). The record of cropmarks shows enclosures, trackways and ringditches in the adjacent fields which extend across a large area. Excavations at the nearby Moverons Pit have revealed significant multi-period archaeological remains including prehistoric ritual activity and Saxon settlement. The potential for archaeological remains within the development site is high and the impact of the development upon them should be assessed with an archaeological field evaluation. A condition is therefore suggested to require archaeological trial trenching and excavation.

6.34. Given the historic agricultural use of the land adjoining the proposed site, the Council’s Environmental Protection Team are requesting that a watching brief is conditioned and undertaken by the applicant, and that the Local Authority are contacted in the event of unexpected ground conditions being encountered during development; ensuring the minimum precautions are undertaken until such time as the LPA responds to the notification.

7. Conclusion

7.1. The proposal is acceptable in principle and is in overall accordance with the development plan and the Framework. In accordance with Policy SP1, planning permission should, therefore be granted subject to conditions.

8. Recommendation

8.1. The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below

CATEGORY	TERMS
Financial contribution towards RAMS	£127.30 per dwelling
Financial Contribution towards Public Open Space	Based on number of bedrooms

8.2. Conditions and Reasons

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
- 2 The development hereby permitted shall be carried out in accordance with the following approved Drawing Nos: PA001, PA002C, PA003C, PA004A, PA005A, PA006, PA007 and PA008.

Reason - For the avoidance of doubt and in the interests of proper planning.
- 3 The development hereby permitted shall be carried out in accordance with the Arboricultural Impact Assessment and Preliminary Method Statements, produced by Arboricultural Association, ref: TPSarb2160920, unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure that the proposal does not have any detrimental impact on adjacent trees.
- 4 The development hereby permitted shall be carried out in accordance with the Ecological Impact Assessment, produced by Hybrid Ecology Ltd, dated January 2021, unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure that the proposal does not have any detrimental impact on protected species and the interest of site biodiversity.
- 5 No above ground development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction".

Reason - In the interests of visual amenity and the character of the area.
- 6 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - In the interests of visual amenity and the character of the area.
- 7 Prior to the commencement of development a Construction Management Plan shall have first been submitted to and approved in writing by the Local Planning Authority. This shall include a method statement for the following (where applicable):

- i) Provision for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials storage of plant and materials used in constructing the development, and; wheel and underbody washing facilities
- ii) 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.
- iii) 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.
- iv) 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.
- v) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- vi) 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.
- vii) Prior to the installation of any external lighting precise details shall have first been submitted to and approved in writing by the local planning authority. Any external lighting shall be designed so as to prevent any unnecessary light spill. Any lighting of the development shall be located, designed and directed or screened so that it does not cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/cause unnecessary light pollution outside the site boundary. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers. Thereafter external lighting shall only be installed in accordance with such details as may have been approved.
- viii) 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.
- ix) No materials produced as a result of the site development or clearance shall be burned on site.
- x) 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.
- xi) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Reason: In the interests of residential amenity and highway safety.

- 8 Prior to occupation of the development, the access at its centre line shall be provided with a minimum visibility splay with dimensions of 2.4 metres by 70 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of 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.

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

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

- 10 Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

- 11 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.

- 12 Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 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 in accordance with policy DM1.

- 13 Prior to occupation of the development the vehicular access for the host dwelling shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 4.5 metres (5 low kerbs), shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

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

- 14 The existing access for the host dwelling shown on the site layout plan shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / cycleway / kerbing immediately the proposed new access is brought into first beneficial use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety.

15 There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

16 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.

17 If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure that the site is free from contamination.

18 Prior to above ground works, a scheme for the provision of electric vehicle charging facilities for each dwelling shall have first been submitted to and approved in writing by the local planning authority. Thereafter the charging facilities shall be installed in a working order, prior to first occupation of the respective plot.

Reason: In order to promote sustainable transport.

19 Any lighting of the development shall be located, designed and directed [or screened] so that it does not cause avoidable intrusion to adjacent residential properties or cause unnecessary light pollution outside the site boundary. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers

Reason: To protect the existing residential amenity

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

b) No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined in 1 above.

c) 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: The Essex HER shows that the proposed development is located within an area with potential for below ground archaeological deposits.

- 21 No development shall take place until precise details of the provision, siting, design and materials of screen walls and fences have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the dwellings to which they relate being first occupied and thereafter be retained in the approved form.

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

- 22 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no provision of extensions, roof alterations, buildings, enclosures, swimming or other pool shall be erected except in accordance with drawings showing the design and siting of such building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of the amenities of the occupants of neighbouring property.

8.3. Informatives

Positive and Proactive Statement

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

Highway Informatives

- It is noted that the new vehicular access for the host dwelling appears to impact directly on the existing telegraph pole and support cables adjacent to the highway boundary; one of the support cables appears to be within the alignment of the new driveway. The support cables cannot simply be moved or even removed as it will impact on the structure of the telegraph pole and in-turn compromise highway safety. The agent/applicant needs to discuss this with the respective Utility Company to see what would be acceptable to them in relation to the driveway access and what potential costs would be entailed to possibly re-locate the apparatus which would be at the applicants expense.
- 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 - Development Management Team, Ardleigh Depot, Harwich Road, Ardleigh, Colchester, CO7 7LT
- 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.

- 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.

Archaeology

A professional team of archaeologists should undertake the archaeological work. The archaeological work will comprise initial trial trenching evaluation. A brief outlining the level of archaeological investigation will be issued from Essex County Council Archaeology on request.

9. Additional Considerations

Public Sector Equality Duty (PSED)

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

Human Rights

- 9.8. In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9. You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).

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

Finance Implications

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

10. Background Papers

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