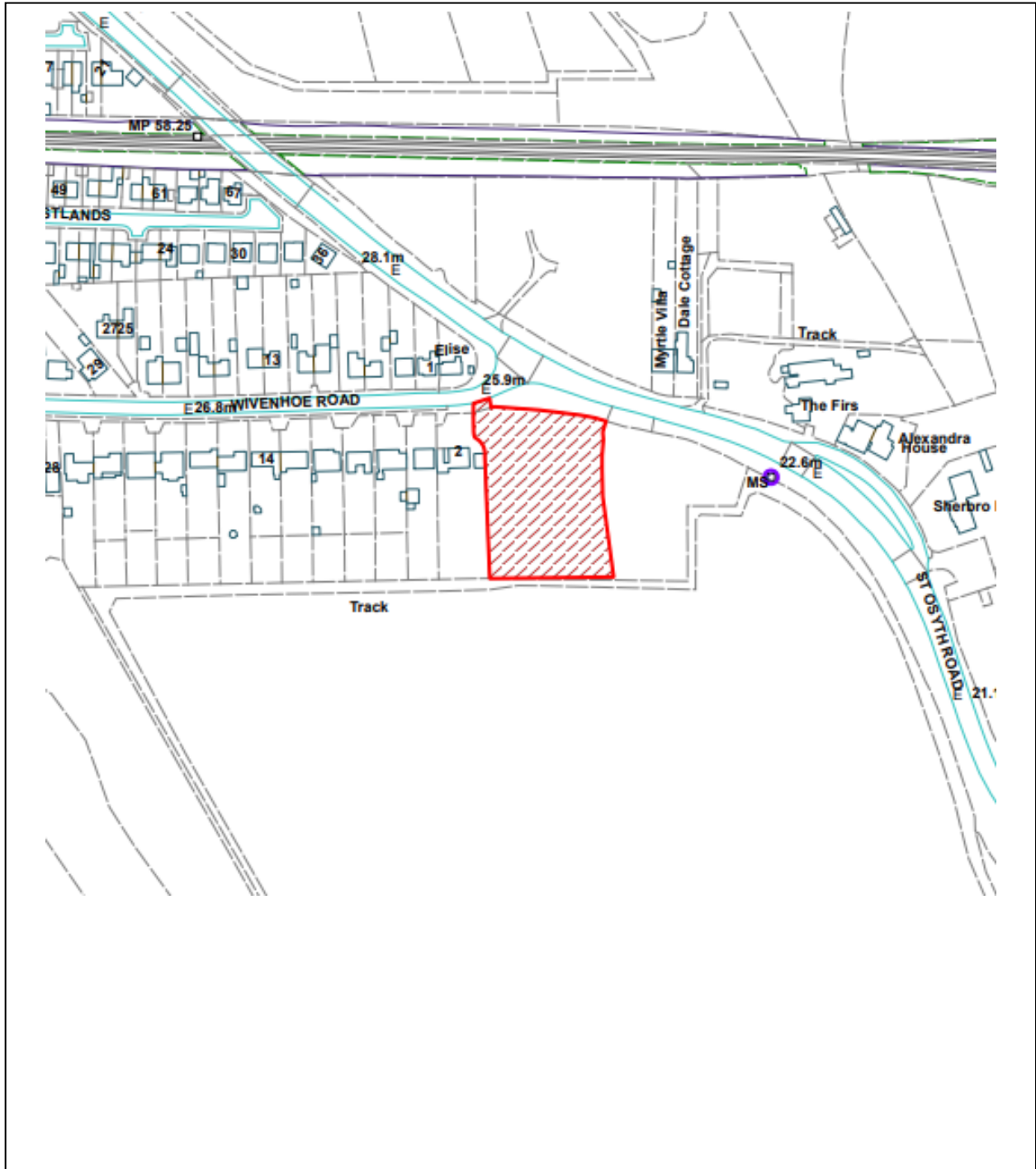


PLANNING COMMITTEE

21 December 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.4 PLANNING APPLICATION – 21/01490/VOC – LAND ADJACENT 2 WIVENHOE ROAD ALRESFORD CO7 8AD



DO NOT SCALE

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Application: 21/01490/VOC

Town / Parish: Alresford Parish Council

Applicant: Mr Ross Bain - Vaughan and Byth (Construction) Ltd

Address: Land adjacent 2 Wivenhoe Road Alresford =CO7 8AD

Development: Variation of condition 2 (Approved drawing numbers) of application 19/01261/FUL - to allow for design amendments to Plots 2 and 3 and Site Layout Plan.

1. **Executive Summary**

- 1.1 This application has been referred to Planning committee as one of the landowners is an employee of Tendring District Council.
- 1.2 The application seeks planning permission for the variation of condition 2 of application 19/01261/FUL to allow for design amendments to plots 2 and 3.
- 1.3 The site falls adjacent to, but outside of, the Alresford Settlement Development Boundary within the Adopted Tendring Local Plan 2007 but falls inside the Settlement Development Boundary for Alresford within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.
- 1.4 It is considered that the design changes to Plots 2 and 3 are more of a traditional appearance and are in keeping with the different types of housing along Wivenhoe Road.
- 1.5 There will be no impact upon residential amenities, impact on trees or impact upon highways.
- 1.6 Alresford Parish Council have no objection and one letter of support has been received.

Recommendation:

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

- a) Subject to the conditions stated in section 8.1

2. **Planning Policy**

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

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Adopted Tendring District Local Plan 2007 (part superseded)

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

COM6 Provision of Recreational Open Space for New Residential Development

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

Relevant Adopted Policies (Section 1)

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP7 Place Shaping Principles

Relevant Emerging Policies (Section 2)

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

CP1 Sustainable Transport and Accessibility

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. On 24th November 2021, the Council received the Planning Inspectors' final report on the legal compliance and soundness of Section 2 of the emerging Local Plan. The report has confirmed, that with the inclusion of a number of 'Main Modifications' (which have already been the subject of formal public consultation), the Plan is legally compliant and sound and can now proceed to adoption. The report is due to be considered by the Planning Policy and Local Plan Committee on 11th January 2022 which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25th January 2022. On adoption, the new Section 2 Local Plan will join the new Section 1 Local Plan to form the 'development plan' for Tendring and the old 2007 Local Plan will be superseded in full.

Now that the Inspectors' final report is received, the Section 2 Local Plan has virtually reached the final stage of preparation, all objections have been resolved and the Inspector has confirmed that the Plan is sound and therefore in conformity with the Framework. For these reasons, Officers now advise that the emerging Plan should now carry 'almost full weight' in decision making.

Until the new Local Plan is adopted in January 2022, the 2007 adopted Local Plan, legally, will still form part of the 'development plan' and there will still be a requirement to refer to the 2007 Local Plan in decision making. However, the level of weight to be afforded to the policies in the 2007 Plan is reduced to very limited weight given that a more up to date Plan has progressed to such an advanced stage of the plan making process.

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

01/01197/FUL	Change of use from agricultural to domestic	Approved	20.09.2001
01/01877/FUL	Timber garage	Approved	12.12.2001
06/01419/TPO	1 No. Oak - -remove all epicormic growth. Crown lift to 6 metres over road.	Approved	29.09.2006

13/00833/OUT	Outline application for 5 new dwellings.	Refused	14.11.2013
14/01144/OUT	Outline application for 5 dwellings (revised application following refusal 13/00833/OUT).	Withdrawn	01.04.2015
15/01686/FUL	Construction of a new single storey low impact sustainable dwelling. The proposal will incorporate the provision of a driveway and double garage.	Approved	11.02.2016
18/01381/FUL	Residential development of 3 dwelling houses.	Refused	24.10.2018
18/01775/FUL	Proposed residential dwelling house and garage.	Approved	16.01.2019
19/01261/FUL	Residential development of 3no. dwelling houses.	Refused	25.10.2019
20/01409/FUL	Variation of condition 2 of application 19/01261/FUL (approved on appeal APP/P1560/W/19/3244048) for revisions to plot one and access road.	Approved	22.01.2021
21/01572/DISCON	Discharge of conditions 3, (Tree report/plan) 4, (Landscaping) and 8 (Construction method statement) of permission 19/01261/FUL.	Approved	28.10.2021

4. Consultations

ECC Highways Dept
19.10.2021

It is noted that this application concerns variation of condition 2, to allow for design amendments to Plots 2 and 3 and site layout plan, in principle the Highway Authority does not object to the proposal as submitted.

Informative:

1: 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

TDC Tree & Landscape Officer
15.10.2021

The trees on the boundary of the site, which are important for the screening benefit that they provide will not be affected by the proposed variation of condition application.

5. **Representations**

5.1 Alresford Parish Council have no objection to this application.

5.2 1 letter of representation has been received stating the following:

- Concerns with the parking on the original layout and moving the garages back is sensible to increase the off road parking space. No objection and see no reason why these changes should not be approved.

6. **Assessment**

Site Context

6.1 The site is situated to the south of the junction of Wivenhoe Road and St Osyth Road in Alresford, and is currently laid to grass. Along the north boundary of the site there are mature trees and hedgerow which provide screening.

6.2 The site is currently accessed via an entrance to the western side of the site adjacent to No. 2 Wivenhoe Road. Wivenhoe Road is a residential street, with a mix of dwellings of different styles and designs, each with large rear gardens and generally arranged in a linear manner. On the opposite side of the St Osyth Road there is a cluster of residential properties.

6.3 The site falls adjacent to, but outside of, the Alresford Settlement Development Boundary within the Adopted Tendring Local Plan 2007 but falls inside the Settlement Development Boundary for Alresford within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Planning History

6.4 Under planning reference 19/01261/FUL, the application was refused at Planning Committee for the erection of three dwellings due to the intensification of the site which would represent a form of ribbon development that would not be in keeping with the surrounding semi-rural streetscene that fails to enhance the surrounding local areas character or distinctiveness.

6.5 The application was taken to appeal and the decision was allowed on 14 August 2020 under planning appeal reference APP/P1560/W/19/3244048.

6.6 Under planning reference, 20/01409/FUL, planning permission was approved for the variation of condition 2 of application 19/01261/FUL (approved on appeal APP/P1560/W/19/3244048) for revisions to plot one and access road.

Proposal

6.7 This application seeks planning permission for the variation of condition 2 (Approved drawing numbers) of application 19/01261/FUL - to allow for design amendments to Plots 2 and 3 and Site Layout Plan.

Assessment

6.8 The main considerations for this application are:

- Principle of development
- Scale, Layout and Appearance
- Impact upon Neighbouring Amenities
- Trees and Landscaping
- Highway Safety and Parking Provision
- Financial Contribution – Open Space and Play Space
- Financial Contribution – Habitat Regulations Assessment
- Other Considerations

Principle of Development

6.9 The principle of development has been established through the planning appeal reference APP/P1560/W/19/3244048 and therefore development is acceptable on the application site subject to the details below.

Scale, Layout and Appearance

- 6.10 Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Emerging Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout, create a unique sense of place - avoiding the use of ubiquitous standard house types. Paragraph 130 of the Framework requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.
- 6.11 In regards to plot 2 and plot 3, the proposed design is considered more traditional including features such as an oak post porch with casement cottage style windows. To the rear will be a single storey extension including a roof lantern used for light purposes only. The proposed change in design is considered acceptable in this location.
- 6.12 The dwellings retain at least 1 metre to all boundaries which exceeds the standards set out within saved Policy HG14 of the Tendring District Local Plan.
- 6.13 In terms of the garages for both plots, they have been set back from both dwellings which has created a long driveway to accommodate parking for several cars.
- 6.14 Plot 2 will be constructed from: natural slate roof with grey angle ridges; facing brickwork with oak post and a brick plinth. Plot 3 will be constructed from natural slate roof with grey angle ridges, render with pentice boards, oak posts and brick plinth. The materials proposed are considered acceptable and in keeping the character of the area.
- 6.15 Policy HG9 of the Saved Tendring District Local Plan 2007 states that private amenity space for a dwelling of three bedrooms or more should accommodate a minimum of 100 square metres. The plans provided demonstrate that the dwellings can accommodate sufficient private amenity space in line with Policy HG9.

Impact upon Neighbouring Amenities

6.16 The NPPF, at paragraph 130 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Adopted Policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.

- 6.17 Plot 2 will be visible to the neighbouring Plot 1 and Plot 3. There are no side elevation windows proposed and due to the distance to neighbouring boundaries, it is not considered to cause any impact upon neighbouring amenities.
- 6.18 Plot 3 will be visible to the neighbouring plot 2 and number 2 Wivenhoe Road, however due to the distance to the boundary as well as there being no side elevation windows, it is considered that the proposed dwelling will not cause any impact upon neighbouring amenities.

Trees and Landscaping

- 6.19 Saved Policy EN1 relates to landscape character and states that development management will seek to conserve features which contribute to local distinctiveness, which includes important hedgerows and trees.
- 6.20 The trees on the boundary of the site - which are important for the screening benefit that they provide - will not be affected by this proposed variation of condition application.

Highway Safety and Parking Provision

- 6.21 Essex Highway Authority have been consulted on this application and have stated that it is noted that this application concerns variation of condition 2, to allow for design amendments to Plots 2 and 3 and site layout plan, in principle the Highway Authority does not object to the proposal as submitted.
- 6.22 The garages proposed for both plots 2 and 3 both comply with Essex Parking Standards requirements to measure 7m by 3m. There is also sufficient parking to the front of the garages to accommodate at least two parking spaces in line with the Standards. The proposal is acceptable in terms of highway safety and parking provision.

Financial Contributions - Open Space and Play Space

- 6.23 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.
- 6.24 An Open Space financial contribution was requested in relation to the original consent for this site and this been paid.

Financial Contribution - Recreational Disturbance

- 6.25 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.
- 6.26 The development relates solely to changes to the external appearance of both plots 2 and 3. This application seeks to amend the original planning permission, which has been implemented and does not involve any increase to the number of properties to be built. The existing signed Unilateral Undertaking ensures that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District

Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

6.27 The contributions have already been paid so there is no requirement for a UU under this new application.

7. Conclusion

7.1 The principle of residential development in this locality is supported by Local Plan policy. The proposal does not amount to any visual harm, harm to residential amenities, nor harm to highway safety and parking provision. The application is, therefore recommended for approval.

8. Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

8.2 Conditions and Reasons

1. The development hereby permitted shall begin no later than 14 August 2023.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

- Drawing no. 714/1
- Drawing no. 714/2
- Drawing no. 714/3
- Drawing no. 714/4
- Amended Site Plan – Scanned 11 Nov 2021

Reason - For the avoidance of doubt and in the interests of proper planning.

3. The development hereby approved shall be carried out in accordance with drawing no. RS/TP/01 – Tree Constraints Plan and Arboricultural Report – Dated 25/06/13 as submitted under application 21/01572/DISCON.

Reason - To ensure the protection of the retained trees on site.

4. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on approved

Drawing no. 714/1 submitted under 21/01572/DISCON shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

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

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no enlargement of the dwelling houses, additions to their roofs or the construction of buildings incidental to their enjoyment, as permitted by Classes A, B and E of Part 1 of Schedule 2 of that order, shall take place.

Reason - To protect the semi-rural landscape and in the interests of visual amenity.

6. Prior to the first occupation of the dwellings hereby approved, the vehicular access and off street parking and turning facilities in regards to plot 1, as shown on approved drawing 41 Rev B submitted under 20/01409/FUL and in regards to plot 2 and 3 as shown on drawing no. 714/1 and an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority, shall be provided.

Reason - To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety.

7. The development hereby approved shall be carried out in accordance with the drawing no. 714/1/CMS and Construction Method Statement scanned 07 Sept 2021 submitted under application 21/01572/DISCON unless otherwise agreed in writing by the local planning authority.

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

8.3 Informatives

Positive and Proactive Statement

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.

Highways

1: 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

2: The contractor must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway.

Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence.

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/>.