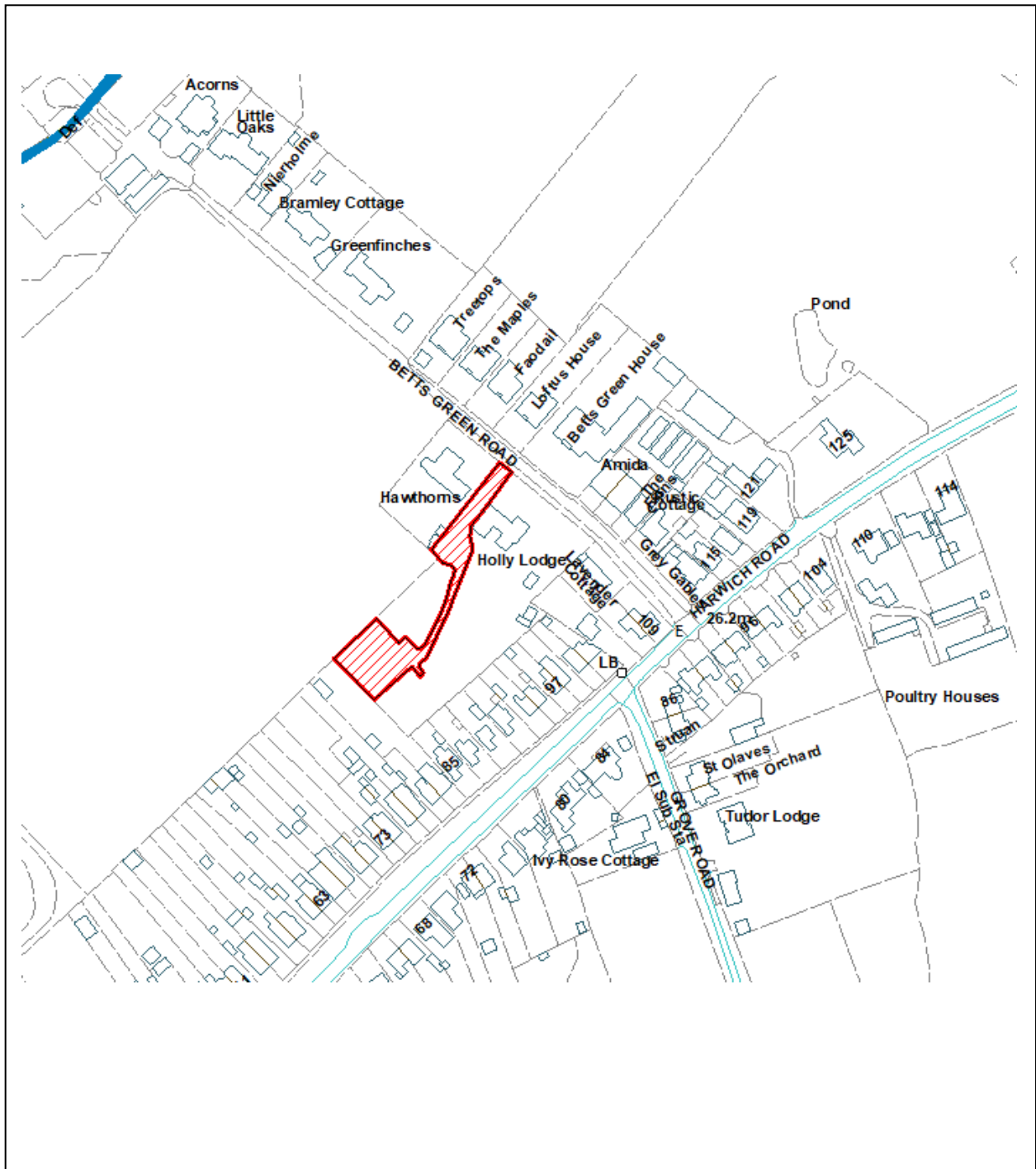


PLANNING COMMITTEE

15th March 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.2 PLANNING APPLICATION – 21/02099/FUL – PLOT 5 LAND REAR OF HOLLY LODGE
BETTS GREEN ROAD LITTLE CLACTON CLACTON ON SEA CO16 9NH**



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Application:	21/02099/FUL	Town / Parish: Little Clacton Parish Council
Applicant:	Mr Strutt	
Address:	Plot 5 Land rear of Holly Lodge Betts Green Road Little Clacton CO16 9NH	
Development:	Proposed erection of one cottage style dwelling (Variation to design of dwelling as approved under 18/00872/DETAIL and 20/01073/DETAIL).	

1. Executive Summary

- 1.1 This application is before Members at the request of Councillor Bray, together with applications for Plot 4 (reference 21/02064/FUL) and Plot 6 (reference 21/01856/FUL).
- 1.2 The application relates to the wider development approved under planning application references 16/02108/OUT, 18/00872/DETAIL and 20/01073/DETAIL (the later DETAIL for amendments to the access only) for 8 bungalows on land to the rear of the property known as Holly Lodge, Betts Green Road, Little Clacton. The outline application, and subsequent reserved matters, were approved by officers under delegated powers. Outline consent was approved subject to a condition requiring the dwellings to be single storey only.
- 1.3 The application seeks full planning permission for the erection of a chalet style 1.5 storey dwelling, varying the height, design and layout of the previously approved bungalow on Plot 5. The proposed dwelling will have an eaves height of 4 metres (previously 2.4 metres) and an overall ridge height of 7.41 metres (previously 5.3 metres). Plot 5 is located to the north-west corner of the wider site, away from existing neighbouring dwellings fronting Harwich Road.
- 1.4 Councillor Bray has referred the application(s) to Planning Committee due to concerns with; street scene impact and harm to the character of the area from the increased height of the dwelling; the increased size and height leading to a cramped appearance; harm to neighbouring amenities; and the potential to cause greater strain on the 'unmade' Betts Green Road from the enlarged dwelling(s).
- 1.5 Betts Green Road and Harwich Road comprise a variety of single, 1.5 and 2 storey dwellings. The proposal will add variety to the character of the development itself. Sufficient space is retained around the dwelling and to neighbouring properties to not appear cramped or result in any material harm to residential amenities. The proposed dwelling does not increase the number of bedrooms originally approved and does not increase the parking requirements.
- 1.6 Whilst there will be a clear increase in height, having carefully considered the individual merits of the application, the plot layout and distance to neighbouring dwellings, the revised proposal will not result in any material harm that would justify a refusal of planning permission.
- 1.7 Members should note, application reference 21/00289/FUL for a similar variation to Plot 1 was approved by officers under delegated powers on 30th July 2021. Concerns were raised by Councillor Bray and neighbouring residents at the time, but the application was not referred to committee for determination. The application was amended to address the concerns and subsequently approved in the absence of any material harm.
- 1.8 The development has commenced under the originally approved applications 16/02108/OUT, 18/00872/DETAIL and 20/01073/DETAIL and the necessary financial contribution toward recreational disturbance (RAMS) has been paid. Therefore, this current application does not require a unilateral undertaking.

- 1.9 In the absence of any material harm resulting from the revised proposal for Plot 5, the application is recommend for approval.

Recommendation: Full Approval

Subject to the conditions stated in section 8.2

2. Planning Policy

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

National:

National Planning Policy Framework July 2021

National Planning Practice Guidance

Local:

Tendring District Local Plan 2013-2033 and Beyond Section 1

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

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports and Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP10 Renewable Energy Generation and Energy Efficiency Measures

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

CP1 Sustainable Transport and Accessibility

Supplementary Planning Documents

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

Tendring Provision of Recreational Open Space for New Development SPD 2008

Essex Design Guide

Local Planning Guidance

Essex County Council Parking Standards 2009

Status of the Local Plan

Planning law requires that decisions on 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 (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

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 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, Paragraph 11 d) of the Framework requires granting 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 (what is often termed the 'tilted balance').

The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

3. Relevant Planning History

02/01535/FUL	Addition to bungalow.	Approved	30.09.2002
14/30325/PREAPP	Residential development of 9 dwellings.	Refused	26.09.2014

21/00289/FUL	Erection of 1 no. cottage style dwelling (variation to design and position of dwelling as approved under 18/00872/DETAIL and 20/01073/DETAIL).	Approved	30.07.2021
21/01856/FUL (Plot 6)	Proposed erection of 1 cottage style dwelling (Variation to design of dwelling as approved under 18/00872/DETAIL and 20/01073/DETAIL).	Current	
21/02064/FUL (Plot 4)	Proposed erection of one cottage style dwelling (Variation to design of dwelling as approved under 18/00872/DETAIL and 20/01073/DETAIL).	Current	

4. Consultations

ECC Highways Dept
31.01.2022

The Highway Authority observes that Betts Green Road is classified as a Private Road and would not normally comment but as the application site is close to Harwich Road and it is noted that the application is to vary the design and position of dwelling and is similar to previous application 21/00289/FUL that altered Plot 1, considering these factors:

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

1. Prior to the occupation of the development the internal layout shall be provided in principle with drawing number: 0952_A_SC_201/A Proposed block plan
Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1.

2. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.
Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8

3. The single garage 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

4. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County

Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

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

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

Informative:

1: The connection to Betts Green Road should be to the specifications of the Street Manager/ Residents Association.

2: The proposed vehicular access must be constructed at right angles to the highway boundary and/ or to the proposed carriageway.

3: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org

5. Representations

5.1 The representations and objections received in respect of this application are summarised below. The objections raised are addressed in the relevant sections of the main report below, at Section 6 – Assessment.

Parish Council

5.2 Little Clacton Parish Council object to the application on the following grounds:

- The original application in 2018 was for bungalows.
- Higher buildings with more bedrooms.
- 2 parking spots and a garage are insufficient for a four bedroom property.
- Will turn this into a cramped site.
- The intended height would have an impact on views from the rear of properties in Harwich Road.

Local / Neighbouring Residents

5.3 3 letters of objection have been received from local residents. The concerns raised can be summarised as follows:

- Too high – not a 'cottage' style dwelling.
- Overbearing visual impact on gardens of properties fronting Harwich Road.

- Loss of view.
- Overlooking and loss of privacy.
- Lack of infrastructure to support such development.
- Harm to wildlife.
- Narrow and unmade Betts Green Road is insufficient to take any traffic.
- Access for fire appliances, ambulances or refuse collection vehicles is insufficient with no turning areas.
- Houses would increase the traffic and noise.
- Years of noise and disruption from building works.

Member Referral

5.4 This application is before Members at the request of Councillor Bray, together with applications for Plot 4 (reference 21/02064/FUL) and Plot 6 (reference 21/01856/FUL), also referred to committee by Councillor Bray.

5.5 Councillor Bray raises the following points:

The height of the new proposal is not consistent with the conditions of the appeal decision. These will be clearly visible from Harwich Road and would be out of character with the current street scene. The increase in size and number of the bedrooms is not consistent with the appeal decision and will potentially cause even greater strain on the unmade Betts Green Road. The increased size and height of the new proposal will lead to the development being of cramped appearance and will detract from, rather than add to, the street scene.

I do not believe that the planning inspector intended the proposed outcome, given the substantial and vastly more impactful presence that the new proposal seeks to achieve, when reaching his decision at the appeal hearing and would have refused this current application.

6. Assessment

6.1 The main considerations in this instance are:

- Site Context;
- The Proposal;
- Relevant Planning History and Principle of Development;
- Scale, Layout and Appearance;
- Highway Safety, Access and Parking;
- Trees and Landscaping;
- Biodiversity and Protected Species;
- Residential Amenities;
- Financial Contribution - Recreational Disturbance;
- Financial Contribution - Open Space and Play Space; and,
- Other Matters.

Site Context

6.2 The application site is located on the northern side of Harwich Road, to the south-west of Betts Green Road within the settlement of Little Clacton. The application relates to 'Plot 5' of the wider development approved under planning application references 16/02108/OUT and 18/00872/DETAIL / 20/01073/DETAIL for 8 bungalows. The site lies within the extended Little Clacton Settlement Development Boundary as defined on Map B.19 of the adopted Tendring District Local Plan 2013-2033 and Beyond.

- 6.3 The site formally comprised of paddock land to the rear of Holly Lodge but development has now commenced under the original approval (and recent approval for variations to Plot 1 reference 21/00289/FUL).
- 6.4 Either side of the site access are existing dwellings, one a detached bungalow and the other being a detached chalet style dwelling. To the south of the site is linear residential development along Harwich Road, mostly 2 storey in height. Across the frontage of the site, which incorporates the residential curtilage of 'Holly Lodge', are several mature trees.
- 6.5 On the opposite side of Betts Green Road are several bungalows, a recent development of two chalet properties and 7 large detached dwellings beyond.

The Proposal

- 6.6 The application seeks full planning permission for the erection of one no. 1 chalet style dwelling being a variation to the single storey bungalow approved under planning application 16/02108/OUT with the details approved under application 18/00872/DETAIL.
- 6.7 Below is a summary of the differences between the approved and proposed schemes:

Scheme	Number of bedrooms	Garage	Parking spaces	Eaves height	Ridge Height	Orientation within plot
Original	3	Single detached	2	2.4	5.3	East facing
Proposed	3	Single attached	2	4	7.1	South facing

Relevant Planning History and Principle of Development

- 6.8 The principle of residential development on the site for 8 dwellings has been established by the approval of application 16/02108/OUT with the details approved under application 18/00872/DETAIL, and the access (serving this plot and the wider site) varied by application 20/01073/DETAIL.
- 6.9 Objections have been raised in relation to the development being contrary to the Planning Inspectorate's findings and decision. However, the development was approved by officers under delegated powers and was not subject of an appeal. Objections have also been raised in regard to the lack of infrastructure to support the development. Again, as the principle of the development for 8 dwellings has been established and this development does not increase the number of units or bedrooms, this issue cannot be introduced as a reason to object to the amended development.
- 6.10 Planning application 16/02108/OUT was approved subject to a number of conditions, including Condition 8 for single storey properties only and Condition 9 controlling extensions and alterations to the dwellings. The wording of these conditions are shown below;

8 The development shall consist of single storey properties only.

Reason - To ensure the development relates appropriately to the character and appearance of the area, in the interests of visual amenity.

9 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B, C and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any

Order revoking and re-enacting that Order with or without modification), there shall be no additions to the properties, nor shall any buildings, swimming or other pool enclosures be erected except in accordance with drawings showing the design and siting of such additions or building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - It is necessary for the Local Planning Authority to be able to consider and control further development in order to ensure that the properties retain sufficient private amenity space and the impact upon surrounding residents is not harmed.

- 6.11 Notwithstanding the conditions imposed on the original permission, every application must be considered on its own merits. The conditions themselves do not stop future development but allow the Local Planning Authority the opportunity to assess the detailed impact in accordance with current policies and material considerations at the time of the decision.
- 6.12 A similar approval to vary Plot 1 from a bungalow to a chalet dwelling was approved by officers under delegated powers on 30th July 2021(application reference 21/00289/FUL). Following the receipt of concerns from neighbouring residents and Councillor Bray regarding the height, design and impact on residential amenities, an amended scheme was sought from the agent. Amendments included the reduction in ridge height and a half hipped roof arrangement together with the submission of a building massing plan demonstrating the mixed character of the area. Although concerns were raised by Councillor Bray, the application was not referred to Planning Committee for determination. Having assessed the revised development for Plot 1, officers were satisfied that no material harm to the character of the area or neighbouring amenities would result, therefore delivering a policy compliant development for which a refusal of planning permission could not be justified.
- 6.13 The approved variation of Plot 1 does not set a precedent for the acceptability of other plots on the site to be amended to chalet style dwellings. As stated above, every application must be assessed on its merits.

Scale, Layout and Appearance

- 6.14 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. 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. Paragraph 127 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.
- 6.15 Betts Green Road and Harwich Road comprise a variety of single, 1.5 and 2 storey dwellings as clearly demonstrated by the Building Heights plan accompanying the application (drawing number 0952_A_SC_209/A). In the context of this mixed character area there can be no objection to the alternative height and design proposed. The proposal is almost identical to the variation approved for Plot 1. The proposal will add variety to the character of the development itself whilst being in keeping with Plot 1 and the wider character of the area.
- 6.16 In terms of layout, ample space is retained around the dwelling to all plot boundaries and to existing and proposed neighbouring properties. The revised dwelling and its siting within the plot increases the distance to the neighbouring properties fronting Harwich Road with open fields to the rear. The steep roof pitch and half hip roof arrangement minimises the bulk of the roof and visual impact of the height increase. For these reasons, the proposal will not appear cramped within its plot, nor cumulatively contribute to a cramped development overall.

- 6.17 The appearance of the proposed dwelling is considered acceptable in design terms incorporating a protruding brick plinth, exposed rafters, render banding and decorative fascia detailing, all contributing positively to the quality of the design and overall development.
- 6.18 Objections have been raised to the height and size of the proposed dwelling appearing out of character and creating a cramped development. However, the merits of the proposal as assessed above demonstrate that no material harm will result from the revised development.

Highway Safety, Access and Parking

- 6.19 Paragraph 108 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SPL3 Part B of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking.
- 6.20 Furthermore, Policy PPL10 of the Local Plan states that proposals for new development should consider the potential for renewable energy generation, appropriate to the site and its location, and should include renewable energy installations, or be designed to facilitate the retro-fitting of renewable energy installations.
- 6.21 The EPOA Parking Standards 2009 require that for dwellings with 2 or more bedrooms, a minimum of 2 parking spaces is provided. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally.
- 6.22 Under application 18/00872/DETAIL Plot 5 was originally approved as a 3 bedroom detached bungalow with a detached single garage and 2 parking spaces. The proposed development, although 1.5 storey, also accommodates 3 bedrooms with an attached single garage (utility area to the rear). The revised proposal does not increase the parking requirements and will remain compliant with the Parking Standards.
- 6.23 Objections have been raised in relation to increased traffic and the narrow, unmade condition of Betts Green Road being unsuitable to serve the development and related larger vehicles. However, the principle of 8 no. 3 bedroom dwellings accessed via Betts Green Road has been established. The proposed variation does not increase the number of dwellings nor the number of bedrooms originally approved. Furthermore, the proposed amendments to the design and appearance of the dwelling occupying Plot 5 does not alter the access arrangements approved under 16/02108/OUT and 18/00872/DETAIL as varied by application 20/01073/DETAIL. For these reasons, it would be wholly unreasonable to refuse planning permission on highway safety grounds.
- 6.24 A suitable Construction Method Statement (satisfying the aims of Condition 6 of the outline planning application reference 16/02108/OUT) also accompanies this application. The development will also incorporate an electric vehicle charging point within the garage in accordance with the aims of Policy PPL10 above.
- 6.25 The Highway Authority raise no objection to this proposal subject to conditions, which will be imposed where necessary having regard to the scale of development and the planning history.

Trees and Landscaping

- 6.26 Paragraph 131 of the NPPF sets out the importance of trees and the contribution they make to the character and quality of urban environments. It states that planning policies and decisions should ensure that opportunities are taken to incorporate trees in developments and that existing

trees are retained wherever possible. Policy LP4 relates to housing layout and states; to ensure a positive contribution towards the District's 'sense of place', the design and layout of new residential developments will be expected to incorporate and maximise the use of green infrastructure, verges, trees and other vegetation.

- 6.27 At the outline stage of the application process the developer provided a full Tree Survey and Report in order to show the extent of the constraint that the trees are on the development potential of the land. This information was in accordance with BS5837: 2012 Trees in relation to design, demolition and construction; Recommendations. The information provided demonstrated how the retained trees would be protected for the duration of the construction phase of any planning permission that may be granted. This information was also in accordance with BS5837: 2012 Trees in relation to design, demolition and construction Recommendations and includes a Tree Protection Plan.
- 6.28 The site layout secures the retention and physical protection of trees afforded formal legal protection by Tree Preservation Order 84/13 and also shows the retention of the other large trees on the land. Most notably T1 Oak, T10 Lime and T16 Pine (using the numbering system of the tree report). In terms of the development of the main body of the application site to the rear of Holly Lodge there are no implications for trees on the land other than the construction of the access road within the Root Protection Area of T1 Oak. This has been constructed using 'No Dig' specification to avoid causing harm to tree roots.
- 6.29 No trees, other significant vegetation or proposed landscaping will be adversely affected by the revised development proposal.

Biodiversity and Protected Species

- 6.30 Paragraph 174 of the National Planning Policy Framework 2021 require that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value whilst paragraph 179 requires Local Planning Authorities to safeguard components of local wildlife-rich habitats. Paragraph 99 of Circular 06/2005 states that "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision" it goes on to state "The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances".
- 6.31 Adopted Local Plan Policy PPL4 states that proposals for new development should be supported by an appropriate ecological assessments and, where relevant, provide appropriate mitigation and biodiversity enhancements to ensure a net gain.
- 6.32 During the outline and reserved matters stages of the application process the necessary preliminary appraisals and follow up reports were undertaken in accordance with the above-mentioned policies and guidance. These comprised of the Preliminary Ecological Appraisal and Great Crested Newt Survey dated 30th July 2018 and the Greenlight Environmental Consultancy Ecological Appraisal and Mitigation and Enhancement details.
- 6.33 These details remain unaltered together with the ecology report submitted with the original application. In accordance with conditions imposed on the earlier permission, the vegetation has now been removed post the bird nesting season and it can be confirmed that there are no changes to the ground levels on the site.
- 6.34 Objections have been raised in relation to the harm to wildlife and biodiversity. However, the site has undergone all necessary preliminary and follow up ecology reports and the development will secure biodiversity enhancements as approved under 18/00872/DETAIL. There can be no objection to the development on ecology or biodiversity grounds.

Residential Amenities

- 6.35 Section 1 Policy SP7 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 Part C seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. Furthermore, Policy LP 4 seeks to ensure that new dwellings are served by a private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area.
- 6.36 Furthermore, the Essex Design Guide offers guidance on maintaining acceptable sunlight and daylight to neighbouring dwellings. The daylight and sunlight tests are set out in the Building Research Establishment (BRE) document 'Site Layout Planning for Daylight and Sunlight: A guide to good practice' (2011). This document suggests that adequate daylight in interiors is achieved at an unobstructed 25° angle from a point 2m above floor-level at the facade. This would result in spacing of at least 10m between opposing houses. In most cases, however, and in order to develop and maintain an attractive townscape, it is desirable for this spacing to be less.
- 6.37 Under application 18/00872/DETAIL Plot 5 (House Type B) was originally approved as a 3 bedroom detached bungalow with a detached single garage and 2 parking spaces. The approved bungalow has an eaves height of 2.4 metres and an overall ridge height of approximately 5.3 metres with an east facing orientation. Plot 5 is located to the north-west corner of the wider site, away from existing neighbouring dwellings fronting Harwich Road.
- 6.38 The proposed 1.5 storey dwelling will have an eaves height of 4 metres and an overall ridge height of 7.41 metres. The proposed ridge height will be 2.1m higher than the previously approved bungalow. Whilst there will be a clear increase in height, in comparison to the original approval the position of the dwelling will be further from the shared boundary with Plot 4, the front elevation of Plot 4 and further from the neighbouring properties fronting Harwich Road.
- 6.39 The separation distances and juxtaposition with neighbouring dwellings are considered to be sufficient to ensure no harmful overlooking, overshadowing or increased sense of enclosure compared to previous approval will occur.
- 6.40 The application site also benefits from a generous rear garden with open fields beyond therefore being of a size and configuration that will meet the needs and expectations of future occupants in accordance with policy requirements.
- 6.41 Objections have been raised regarding the visual impact on gardens of the properties fronting Harwich Road as well as overlooking and loss of privacy. However, having carefully considered the proposal against the above-mentioned policies and guidance, the proposed design and increase in height and bulk are considered to be acceptable.
- 6.42 Objections have also been raised relating to the loss of view and disruption from building works associated with the development. However, a loss of view is not a material planning consideration. Furthermore, any disruption from building works is an inevitable part of the planning process and cannot be the basis of a refusal of planning permission. This is temporary disruption and can be appropriately managed through appropriate working hours controlled by the Construction Method Statement and relevant environmental protection legislation.
- 6.43 In light of the above, the proposal is considered to be acceptable from a residential amenity perspective.

Financial Contribution - Recreational Disturbance

- 6.44 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. Mitigation measures must be secured prior to occupation.
- 6.45 The application scheme proposes a dwelling on a site that lies within the Zone of Influence (Zoi) being approximately 4,500 metres from the Hamford Water SAC, SPA and Ramsar sites. New housing development within the Zoi would be likely to increase the number of recreational visitors to Hamford Water and in combination with other developments it is likely that the proposal would have significant effects on the designated site.
- 6.46 Local Plan Policy SP 2 states that contributions will be secured from development towards mitigation measures in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy 2018-2038 (RAMS). The current charge is £127.30 per dwelling (likely to increase in April 2022).
- 6.47 To ensure that new residential development would not adversely affect the integrity of European Designated Sites in compliance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017, an application would need to be accompanied by a completed unilateral undertaking to secure the legal obligation. However, in this instance, development has commenced under the originally approved applications 16/02108/OUT, 18/00872/DETAIL and 20/01073/DETAIL. The necessary financial contribution toward recreational disturbance (RAMS) has been paid in full for all eight dwellings. Therefore, this current application does not require a unilateral undertaking.

Financial Contribution - Open Space and Play Space

- 6.48 Policy HP5 of the 2013-2033 Local Plan aims to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types. For smaller scale developments better served by an existing nearby area of open or play space, a financial contribution may be sought through a legal agreement. The contribution should be used towards the delivery of improvements, expansion or new open spaces and/or sports facilities.
- 6.49 The original development was approved at a time when open space contributions were not sought for developments of this size and scale. The principle of 8 no. 3 bedroom dwellings on the site has been established. The proposed variation does not increase the number of dwellings nor the number of bedrooms originally approved. Therefore, it would unreasonable to seek a financial contribution toward open space as part of this application given the establish fall-back position.

Other Matters - Previous Conditions

- 6.50 Whilst this planning application is a freestanding development proposal that has been assessed on its own merits, the application site forms part of a wider development site for 8 dwellings subject of a number of conditions and requirements imposed on the approval notices. This revised application must remain compliant with any relevant report findings and conditions. These are summarised below:

- **16/02108/OUT**
 - Condition 3 – Ecological Management and Enhancement Scheme
 - Condition 6 – Construction Method Statement (approved under 21/00440/DISCON)
 - Condition 7 – Surface Water Drainage Strategy (approved under 21/00440/DISCON)
 - Condition 10 – In accordance with Tree Survey

Condition 11 – Timing of clearance (site cleared in accordance)

- **18/00872/DETAIL**

Condition 4 – Implementation of approved landscaping

Condition 6 – Turning / driveways / garages provided prior to occupation and retained

Condition 7 – In accordance with Ecological Appraisal and Enhancement details

- **20/01073/DETAIL**

Condition 2 – Implementation of revised landscaping

Condition 3 – Provision of junction visibility splays prior to occupation

Condition 4 - No dig technology

6.51 In order to ensure compliance with the previously approved details, where relevant and necessary, appropriately worded conditions are recommended at section 8.2 should Members be mindful to approve the application.

7. **Conclusion**

7.1 For the reasons set out above, officers are satisfied that the proposed variation will not result in any material harm to visual amenity, the character of the area or neighbouring amenities that would warrant refusal of planning permission.

7.2 In the absence of any material harm resulting from the revised proposal for Plot 5, officers are recommending 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 **TIME LIMIT:**

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 **APPROVED PLANS:**

The development hereby permitted shall be carried out in strict accordance with the following approved plans and materials details:

0823_A_SC_22	Proposed Site Plan
0823_A_SC_23	Proposed Floor Plans
0823_A_SC_24A	Proposed Elevations
0952_A_SC_300	Site Assembly Plan
0952_A_SC_301	Elevation Comparison Drawing

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

3 **MATERIALS DETAILS:**

Prior to the commencement of any above ground works, precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in the construction of the development hereby permitted shall be submitted to and agreed, in

writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - Materials are a visually essential requirement to ensure a quality development and insufficient information has been provided within the application.

4 IN ACCORDANCE WITH SURFACE WATER DRAINAGE STRATEGY:

No part of the development shall be occupied or brought into use until the agreed method of surface water drainage approved under 21/00440/DISCON has been fully installed and is available for use.

Reason - To minimise the risk of surface water flooding.

5 IN ACCORDANCE WITH TREE SURVEY:

The development shall be carried out in accordance with the Tree Survey and Tree Constraints Plan (Drawing No. 6183-D) dated 4.09.17 unless otherwise agreed in writing by the Local Planning Authority.

Reason - To enable existing landscaping to be protected and retained in the interests of visual amenity.

6 NO DIG TECHNOLOGY:

All hard surface areas within the root protection area of the retained Oak tree adjacent to the access shall be constructed using no dig technology.

Reason - To ensure the longevity of the retained tree in the interests of visual amenity.

7 NO FENCES FORWARD OF DWELLING:

Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A 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 provision of fences, walls or other enclosures, shall be erected forward of the front elevation of the dwelling hereby approved.

Reason - In the interests of visual amenity to retain a spacious appearance and in the interests of the quality of the development.

8 IMPLEMENTATION OF APPROVED LANDSCAPING:

All changes in ground levels, hard landscaping, planting, seeding or turfing shown the approved landscaping 0823_A_SC_25 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 implementation of the approved scheme and adequate maintenance of the landscaping for a period of five years in the interests of the character of the surrounding area.

9 IN ACCORDANCE WITH ECOLOGY DETAILS:

The development hereby approved shall be carried out in strict accordance with the Preliminary Ecological Appraisal and Great Crested Newt Survey dated 30th July 2018 and the Mitigation and Enhancement details - Timetable for Implementation and Proposed

Ecological Enhancement Plan drawing ref. PA-40 as previously approved under application reference 18/00872/DETAIL.

Reason - In the interest of biodiversity.

10 POROUS SURFACING:

All new parking areas and areas of hardstanding shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the site area.

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

11 PARKING DIMENSIONS:

Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres and each garage shall have internal dimensions of 7 metres x 3 metres in accordance with the EPOA Parking Standards.

Reason - To ensure adequate space for parking off the highway is provided in the interest of highway safety.

12 PROVISION & RETENTION OF ROAD/TURNING/PARKING:

The development shall not be occupied until such time as the road, turning, driveways and garages have been provided in accordance with the approved plans and shall be retained in this approved form thereafter.

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

13 CYCLE PARKING:

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

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

14 VISIBILITY SPLAYS:

Prior to occupation of the development, the road junction / access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 59 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 any obstruction at all times.

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

15 IN ACCORDANCE WITH CMS:

The accompanying Construction Method Statement shall be adhered to throughout the construction phase of the development unless otherwise agreed in writing by the Local Planning Authority.

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

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.

Legal Agreement Informative - Recreational Impact Mitigation

This development is subject of a planning obligation securing a financial contribution toward recreational disturbance mitigation in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017. According to our records, this contribution has been paid in full upon the commencement of the development under the originally approved applications 16/02108/OUT, 18/00872/DETAIL and 20/01073/DETAIL.

Highways Informatives

1: The connection to Betts Green Road should be to the specifications of the Street Manager/Residents Association.

2: The proposed vehicular access must be constructed at right angles to the highway boundary and/ or to the proposed carriageway.

3: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org.

Standard Informative 1: The Provisions of the Essex Act 1987, Section 13 (Access for the Fire Brigade) may apply to this Development and will be determined at Building Regulation Stage.

Standard Informative 2: You are reminded that the carrying out of building works requires approval under the Building Regulations in many cases as well as a grant of planning permission. If you are in doubt as to whether or not the work, the subject of this planning permission, requires such approval, then you are invited to contact the Building Control section at Tendring District Council.

Standard Informative 3: If the development includes the construction of a new building on or at the boundary of 2 properties, work to an existing party wall or party structure or involve excavation near to and below the foundation level of neighbouring buildings, you are advised that the provisions of the Party Wall Act 1996 may apply to this development. An explanatory booklet concerning the implications of this Act is available online or from the District Council.

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/>.