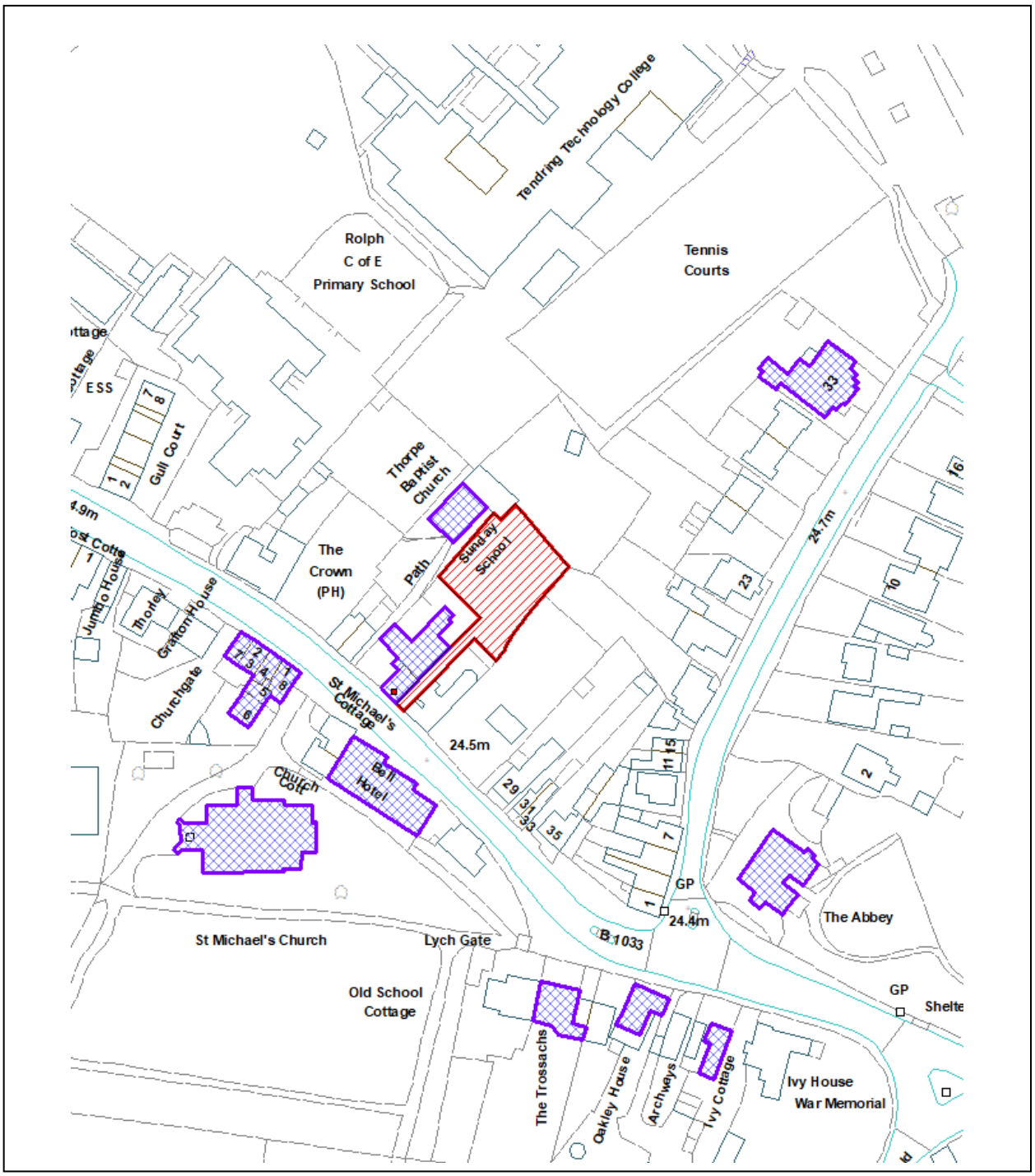
PLANNING COMMITTEE

30th March 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.4 PLANNING APPLICATION – 21/02022/FUL – CHINESE COTTAGE RESTAURANT HIGH STREET THORPE LE SOKEN CLACTON ON SEA ESSEX



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Application: 21/02022/FUL	**Town / Parish**: Thorpe Le Soken Parish Council
Applicant: Bocking Homes Limited	
Address: Chinese Cottage Restaurant High Street Thorpe Le Soken Clacton On Sea Essex CO16 0DY	
Development: Proposed erection of two-bedroom bungalow together with carport, further car parking space, refuse provision and amenity space on land associated with the Chinese Cottage Restaurant.	

1. Executive Summary

1.1 This application is before Members at the request of Councillor Land, for concerns regarding the development's impact on urban design/street scene, highways impact and/or other traffic issues and positive/negative Impact on neighbours.

1.2 The application seeks full planning permission for the erection of a single storey dwelling, with an attached car-port to the right hand side. The dwelling's footprint would be a reversed L-shape with a rear-gable projection and a feature oversail porch roof to the front elevation. Both the main roof and that of the car-port would be gabled-ended. The eaves of the dwelling would be in the region of 2.7m and it would have a ridge of approximately 5.5m. Areas of hardstanding are proposed to the perimeter of the dwelling, along with a grassed back garden with bin-storage to the rear right hand boundary.

1.3 Thorpe Le Soken High Street has the character of a typical village high street with a number of eating establishments, boutique shops and a small supermarket. In terms of the surroundings, the scale of development which has a direct relationship with the street scene comprises a variety of two and 1.5 storey buildings with the odd-example of very low-key 1.5 and single storey buildings. The character of the locale is evidentially of a historic core which is demonstrated by the number of listed buildings and the conservation area designation.

1.4 The area behind the Chinese Cottage restaurant neither enhances nor contributes to the character of the conservation area, comprising a fairly large informal (untidy) un-marked out area for vehicles using the restaurant.

1.5 It is considered that the low-key scale of the proposal will preserve the character of the conservation area. 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 provides ample parking and retains at least seven (marked-out) spaces for the restaurant.

1.6 In the absence of any material harm resulting from the development in regards to its individual appearance, its impact on the wider streetscene, its impact on the character of the Conservation Area, its impact on neighbours in regards to amenity and the parking provision for both the new dwelling and existing restaurant, the application is recommend for approval.

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 RAMS**
- **Financial Contribution towards Open Space**

b) Subject to the conditions stated in section 8.2

c) 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.

National:-

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Local:-

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted 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

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP4 Housing Layout

LP8 Backland Residential Development

PPL4 Biodiversity and Geodiversity

PPL8 Conservation Areas

CP1 Sustainable Transport and Accessibility

Supplementary Planning Documents

Tendring Provision of Recreational Open Space for New Development SPD 2008

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

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

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

DP/V/9D(6)	Unauthorised works to trees	Current	
TPC/94/34	Yew hedge reduce	Current	10.08.1984
01/00064/TCA	Trim Yew trees adjacent to Baptist Church Listed Building to fence level to prevent structural damage	Approved	07.02.2001
01/01752/LBC	Repair fire damaged roof with replacement concrete Norfolk Pantiles	Refused	28.03.2002
07/00443/TCA	2 No. Yew Trees - lop/trim back	Approved	17.04.2007
20/01293/FUL	Construction of a new 3 bedroom dwelling with associated garage.	Withdrawn	24.03.2021
21/02022/FUL	Proposed erection of two-bedroom bungalow together with carport, further car parking space, refuse provision and amenity space on land associated with the Chinese Cottage Restaurant.	Current	

4. Consultations

Essex County Council Heritage
23.12.2021

The application is for the proposed erection of two-bedroom bungalow together with carport, further car parking space, refuse provision and amenity space on land associated with the Chinese Cottage Restaurant

Heritage assets affected by this proposal:

- Bell Inn, Grade II*
- Thorpe Baptist Church, Grade II
- Loblollies, Grade II; and
- Thorpe-le-Soken Conservation Area

I advise that this application should demonstrate that the development of the car park to the existing restaurant (in a listed building) will not hinder this structure remaining in its optimum viable use. It is unclear if this has been resolved.

I recommend at least one roof light is removed from the rear pitch as this is an over fenestration of an incongruous characteristic.

	It should also be confirmed that new windows will be in timber. Aside from the notes above I have no objection to this application. I recommend conditions are attached to any permission requiring samples of all new external materials and surface materials. Detailed drawings should also be provided, by condition, of all new windows, rooflights and external doors.
ECC Highways Dept	A site visit was undertaken in conjunction with the previous 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. It is noted that this application is similar to previous application 20/01293/FUL which was for a 3-bedroom dwelling with associated garage and is also similar to an application (18/01388/FUL) on an adjoining site that was granted planning permission in 2018 for a pair of semi-detached properties. The proposal is at the end of a private road with an established vehicular access and retains adequate room and provision for off-street parking and turning, for the proposed dwelling and retained parking spaces for the host site, The Chinese Cottage. The host site is in a central location, and it is noted that the restaurant is relatively small, considering these factors the need for a large area of car parking is not essential and the applicant has demonstrated that the retained spaces will be adequate to cater for the restaurant: From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions.
Tree & Landscape Officer 23.12.2021	The application site is currently set out as a car park and appears to be being used in association with the Chinese Cottage Restaurant. The main body of the land does not contain any trees or other significant vegetation however there are several trees on and close to, the boundary of the application site. If planning permission is likely to be granted a condition should be attached to secure compliance with the recommendations contained in the AIA to ensure that retained trees are physically protected for the construction phase of any development for which planning permission may be granted. There appears to be little scope or opportunity for new

	soft landscaping to soften and screen the appearance of the development.
Building Control and Access Officer 21.12.2021	Agent needs to demonstrate how access for a fire fighting vehicle is to be provided that meets the requirements of Approved Document B.
UU Open Spaces 17.01.2022	Response from Public Realm Open Space & Play There is currently a deficit of 2.43 hectares of play and formal open space in Thorpe-le-Soken. The Parish have recently developed another area of open space known as Lockyer Wood. They have included some play provision but this is an ongoing project to provide reduce the deficit of play facilities in Thorpe. Due to the significant lack of provision in the area if it felt that a contribution, is justified and relevant to the planning application and that this money would be used towards providing additional facilities at Lockyers Wood.
Essex County Council Archaeology 12.01.2022	The Essex Historic Environment Record (HER) shows that the proposed development lies within an area of archaeological interest and within the Thorpe le Soken Conservation Area. The proposed development is located in the core of historic Thorpe-le-Soken. The proposed development is therefore likely to impact on late medieval or post-medieval archaeological remains relating to the historic settlement of Thorpe-le-Soken. RECOMMENDATION: A Programme of Trial Trenching followed by Open Area Excavation

5. Representations

5.1 The Parish Council objects to the development, particularly:-

- Highways safety as Thorpe high street is already a significantly overburdened and congested part of the highway
- Access to the site via an extremely narrow driveway and is located at where the road narrows, often creating a 'pinch point' for traffic.
- Construction traffic accessing the site would prevent a significant safety risk to existing road users and pedestrians.
- The loss of the car parking facilities for the restaurant would push customer traffic onto the high street, further adding to the parking issues which contribute to the existing safety issues.
- The harms the development would cause to nearby heritage assets and character of the area.

5.2 One letter was received which objects to the landscaping scheme, particularly:-

- The proposed double thickness hedge of Pyracantha has very sharp thorns

- If this proposal is approved I am assuming that the Church would be responsible for keeping our side trimmed which would be at considerable cost to us
- It would not stop people brushing against it accidentally and receiving scratches
- one plant can spread 1-3 metres any access to those walls would be unobtainable
- If we needed to do repairs to these walls how would we be able to get to them through a thorny double hedge
- Proposed Planting of one Acer tree appears very close to our building it could restrict our light into the building it is also near to where our drains are situated.

Member call-in

5.3 This application is before Members at the request of Councillor Land for the following reasons:-

- Impact on urban design/street scene
- Highways impact and/or other traffic issues
- Positive/Negative Impact on neighbours

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;
- Backland Residential Development
- Highway Safety, Access and Parking;
- Trees and Landscaping;
- Conservation Area
- Residential Amenities;
- Financial Contribution - Recreational Disturbance;
- Financial Contribution - Open Space and Play Space; and,

Site Context

6.2 The site is in the region of 0.1 hectare and comprises an unmade hardstanding, boundary hedges and trees. The land is associated with The Chinese Cottage (a restaurant fronting the main High Street) and provides the informal parking for the restaurant.

6.3 The character of the surrounding area is heavily urbanised, with a number of residential and commercial properties to all sides.

6.4 There are a number of Grade II Listed Buildings in proximity; Thorpe Baptist Church to the north-east and adjacent to the application site. Loblollies to the south-west and adjacent to the application site. Bell Inn due south on the south side of the High Street.

6.5 The site is located within the Thorpe-le-Soken Conservation Area. The special quality of Thorpe-Le-Soken Conservation Area derives, in the main, from its importance in medieval times, indicated by the wealth of historic buildings lining a sinuous main street.

6.6 The site is also located within the Thorpe-le-Soken Settlement Boundary.

Relevant Planning History

6.7 In September 2020 application 20/01293/FUL was submitted which sought planning permission for a two-storey 3 bedroom dwelling with associated garage.

6.8 The application was withdrawn in March 2021.

Proposal

6.9 The application seeks planning permission for one two-bedroom bungalow with an attached car-port to the right hand side.

6.10 The dwelling's footprint would be a reversed L-shape with a rear-gable projection and a feature oversail porch roof to the front elevation. Both the main roof and that of the car-port would be gabled-ended.

6.11 The eaves of the dwelling would be in the region of 2.7m and it would have a ridge of approximately 5.5m.

6.12 Areas of hardstanding are proposed to the perimeter of the dwelling, along with a grassed back garden with bin-storage to the rear right hand boundary.

Principle of Development

6.13 Thorpe Le Soken is classified as a Rural Service Centre in the Local Plan to 2033. The site is located within the Development Boundary therefore there is no principle objection to the proposal, subject to the detailed considerations discussed below.

Scale, Layout and Appearance

6.14 Section 1 Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Section 2 Policy SPL3 of the 2013-33 Local Plan also requires, amongst other things, that the development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Section 2 Policy LP4 requires that the design and layout of new residential and mixed-use developments in the Tendring District will be expected to 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 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.

6.15 Scale is the height, width and length of each building proposed within a development in relation to its surroundings. The area immediately surrounding the application site is characterised by a mixture of 1 and 2 storey buildings.

6.16 Whilst it is acknowledged the dwelling would be sited further to the rear of the existing pattern of development along this section of High Street, the approval of application 18/01388/FUL which is immediately adjacent the application site, holds significant weight as a material consideration. There are further notable examples of development similarly set back to the north-west, whilst the overall character of the immediate surrounding area is not particularly well defined.

6.17 For these reasons, the scale and siting of the proposed development is considered to be acceptable.

Backland Residential Development

6.18 “Backland” developments are, for the purposes of Policy LP8 below, defined as the proposed erection of one or more dwelling houses on a parcel of land:

- which lies generally behind the line of existing frontage development;
- has little or no frontage to existing public highway; and
- which would constitute piecemeal development in that it does not form part of a large area allocated for development

6.19 Typical sites include the back gardens of existing dwellings, “tandem” development sites of the kind found in Jaywick Sands, smallholdings, yards, or small vacant sites. On these sites, it will often be difficult to achieve the design requirements of this Local Plan due to a combination of location, restricted access and intensity of residential use in the vicinity.

6.20 The main problems that can arise as a result of backland development include: undermining the established character of an area (especially if similar schemes were to be repeated elsewhere in a locality); dwelling plots appearing cramped relative to their surroundings; the fragmentation of established gardens with a loss of mature landscaping; and the infringement of neighbouring residents’ amenities. Development behind an established building line can also appear incongruous, particularly isolated dwellings. To avoid these problems, backland development requires particularly thorough planning, and Policy LP8 provides specific criteria that the Council will apply in such proposals.

6.21 There must also be proper means of access to backland development, which is safe and convenient for both drivers and pedestrians, with a turning area where necessary to avoid the need for vehicles to reverse onto a public highway. A proposed access should avoid excessive disturbance or loss of privacy to neighbouring residents through, for example, an access drive passing unreasonably close to an adjoining dwelling. The likely frequency of use by vehicular traffic and the suitability of the access for service vehicles and the emergency services will also be relevant material considerations.

6.22 Proposals for the residential development of “backland” sites must comply with the following seven criteria:-

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	Not applicable; there is no loss of private amenity space serving an existing dwelling
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	The proposed dwelling would be accessed utilising the existing access and drive; as such it is already in use. From a highway and transportation perspective, the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions (see section below)
the proposal must avoid “tandem” development using a shared access	The development is for one dwelling only
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;	The site does not contain an awkwardly shaped development or parcel of land. The host site is a large rectangular parcel of land with ample space for such a redevelopment of the site. The properties retain sufficient spacing between each other to ensure that the development would not appear overly cramped. There is not a sense of ‘over

	development' within the layout proposed.
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	The site is not on the edge of a defined settlement.
the proposal must not be out of character with the area or set a harmful precedent for other similar forms of development.	The dwellings constructed as a result of 18/01388/FUL are in a similar location; there are further notable examples of development similarly set back to the north-west.

6.23 The proposal complies with all relevant criteria (six of the seven) and for this reason is considered an appropriate form of Backland Development.

Highway Safety/Parking

6.24 Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. Paragraph 112 states that applications for development should (a) give priority first to pedestrian and cycle movements and (c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter. Paragraph 130 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. These objectives are supported adopted Policy SP7 of the Tendring District Local Plan 2013-2033.

6.25 It is noted that this application is similar to previous application 20/01293/FUL which was for a 3-bedroom dwelling with associated garage and is also similar to an application (18/01388/FUL) on an adjoining site that was granted planning permission in 2018 for a pair of semi-detached properties. The proposed dwelling will be located at the end of a private road with an established vehicular access and retains adequate room and provision for off-street parking and turning, for the proposed dwelling and retained parking spaces for the host site, The Chinese Cottage. The host site is in a central location, and it is noted that the restaurant is relatively small, considering these factors the need for a large area of car parking is not essential and the applicant has demonstrated that the retained spaces will be adequate to cater for the restaurant.

6.26 The restaurant is relatively small, having a maximum of 60 covers. The application is accompanied by an informal parking survey taken at 18.23 and 19.41 on a Friday evening; the maximum number of cars parked was eight. The facility is a local restaurant predominantly serving the local population of Thorpe Le Soken and a significant proportion of customers arrive on foot due to the nature of the facility. It is also considered that the highly sustainable location of the restaurant, in conjunction with the retention of at least seven spaces (with potential provision for a further two) will not diminish the viability of the restaurant in any way.

Trees and Landscaping

6.27 Policy LP4 states that, to ensure a positive contribution towards the District's 'sense of place', the design and layout of new residential will be expected to promote health and wellbeing by incorporating and maximising the use of green infrastructure, verges, trees and other vegetation. In order to show the extent of the constraint that the trees are on the development potential of the land the applicant has submitted and Arboricultural Impact (AIA) as part of a tree survey and report. This information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction'.

6.28 The AIA contains an accurate description of the health and vitality of the trees as well as setting out the extent to which they constrain the development potential of the land. It identifies the need to remove T1 ' Yew, T2 ' Yew and T3 Yew as well as T6 Magnolia. The removal of

the above trees will not have a significant adverse impact on the character or appearance of the conservation area. In terms of the retained trees the information provided shows that the development proposal could be implemented without an incursion into the Root Protection Area (RPA) of T4 which is the large Sycamore to the rear of the proposed dwelling although it will rather overshadow the garden of the proposed dwelling. Notwithstanding this, the Sycamore does not hold a high amenity value in the context of the streetscene of the Conservation Area.

6.29 The proposal does however require the removal of four trees. T1 (Yew); this tree is located to the rear of the site and is growing within dense vegetation, has some browning foliage and minor deadwood. T2 (Yew); this tree is located to the rear of the site, the eastern stem is dead, some bark loss to the base of main stem on east side and Lopsided crown – it is proposed to remove the eastern stem only. T3 (Yew) this tree is located to the rear of the site and is dead. T6 (Magnolia); this tree is located to the west corner of the site and ivy beginning to climb tree and slightly curved form to base of main stem. T11 (Sycamore); this tree is located against the south-west boundary and the tree appears to have little actual canopy and is mostly an etiolated stem covered in ivy. The removal of the above trees will not have a significant adverse impact on the character or appearance of the conservation area.

6.30 There will be a minor incursion into the RPA's of the Sycamore on the south eastern boundary of the site although these trees are self-sown trees growing along the boundary fence line and are unlikely to be adversely affected by the development.

Conservation Area

6.31 Heritage assets range from sites and buildings of local historic value to those of the highest significance. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. The character of an area is made up not only by individual buildings but also their relationship to each other and the sense of place that they create. The setting of a building is therefore a material consideration when assessing the suitability of development proposals in Conservation Areas.

6.32 Paragraph 197 of the NPPF requires the Local Planning Authority, when determining applications for development, to take account of the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that conservation of heritage assets can make to sustainable communities and the desirability of new development making a positive contribution to local character and distinction.

6.33 When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

6.34 Policy PPL8 (Conservation Area) requires that development must preserve or enhance the character or appearance of the Conservation Area, especially in terms of scale and design, particularly in relation to neighbouring buildings and spaces; and materials/finishes.

6.35 The special quality of Thorpe-Le-Soken Conservation Area derives ultimately from its importance in medieval times, indicated by the wealth of historic buildings lining a sinuous main street. Neighbouring parts of the village that relate to the medieval core in plan form and in the intrinsic interest of their buildings are also included in the Area because of their supporting role. The Area contains a wealth of mature trees which frame buildings and spaces and contribute to its character and appearance.

6.36 Thorpe's High Street is a classic example of the visual benefits in townscape of a balance between unity and variety. Designs of considerable ingenuity and interest are created within tightly-defined constraints concerning massing, height, materials and colour finishes.

6.37 High Street: "crossroads" to The Rose and Crown is the heart of the Conservation Area. It contains the majority of older properties and listed buildings, arranged on either side of the gently sinuous High Street. The predominant building style in this character area is the individual house, either detached or physically attached to its neighbours, and rising from the back of the pavement. Massing is simple and uncomplicated, with roofs characteristically pitched parallel to the main road.

6.38 Special note can be made of the following, beginning on the north side of High Street at its east end:- • The group opposite the Bell Hotel, consisting of a small cottage on the highway edge with a prominent rendered gable, a small gabled shop finished in deep Suffolk pink, the Chinese Cottage Restaurant, listed and set back behind an attractively-detailed forecourt, and the house fronting the Baptist Church, of brick under a hipped slate roof though with some modern replacement windows; • While the majority of properties in this part of the High Street are on or closely related to the road frontage, mention must be made of the Baptist Church of 1823, set at the back of a deep plot but now most obvious from the adjacent car park of the Crown Hotel.

6.39 The Heritage Officer makes the following observation(s):-

This application should demonstrate that the development of the car park to the existing restaurant (in a listed building) will not hinder this structure remaining in its optimum viable use.	The Bell Inn opposite the application site is also a Grade II listed building which has a restaurant, offers evening entertainment and also provides bed and breakfast. The Bell Inn establishment has no parking at all. The proposal will retain 7 car parking spaces for the restaurant.
at least one roof light is removed from the rear pitch	Such a nominal development could be carried out without an express grant of planning permission and for this reason it is unlikely the LPA could substantiate an amendment to the plans.
It should also be confirmed that new windows will be in timber	Agreed; a similar requirement was imposed on application 18/01388/FUL [see condition 10].
I recommend conditions are attached to any permission requiring samples of all new external materials and surface materials. Detailed drawings should also be provided, by condition, of all new windows, rooflights and external doors.	It is agreed that a condition should be attached to any forthcoming approval requiring submission of a brick sample [see condition 9].

6.40 Have regard to the above it is considered that the proposal will have a neutral impact on the character and appearance of the Thorpe le Soken Conservation Area, therefore resulting in no conflict with any of the stated local or national conservation themed policies.

6.41 The Historic Environment Consultant comments that the Essex Historic Environment Record (HER) shows that the proposed development lies within an area of archaeological interest and within the Thorpe le Soken Conservation Area. The proposed development is located in the core of historic Thorpe-le-Soken. The proposed development is therefore likely to impact on late medieval or post-medieval archaeological remains relating to the historic settlement of Thorpe-le-Soken. The protection of any potential archaeological remains will be secured by planning conditions [see conditions 11, 12 and 13].

Impact on Residential Amenity

6.42 The NPPF, at paragraph 130 states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Section 1 Policy SP7 of the Tendring District Local Plan 2013-2033 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. Section 2 Policy LP4 requires that new residential developments will be expected to provide for 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.

6.43 Space Standards:-

In March 2015, the government launched a new approach to housing standards and published a new set of streamlined national technical standards. This included publication of Technical housing standards – nationally described space standard.

No. of Bedrooms	No. of Bed Spaces	Storeys	Min Requirement	Actual Floorspace	Compliance
2	4	1	70sqm	80sqm	yes

6.44 The ridge of the car-port is around 3m from the boundary with Darcy Cottage (the left hand plot of 18/01388/FUL) to the south east and there is one ground-floor side facing window which would not only be contained entirely beneath the canopy of the car-port but, in serving a bathroom, would be obscurely glazed also.

6.45 There are first floor windows in the south east elevation of the Sunday-School building; however as this building is not used in the same intense manner as a residential dwelling the potential views from these windows across the amenity space of the new dwelling are likely to be of limited occurrence.

6.46 In regards to the private amenity space; this is a little under 154sqm and comprises part paved patio and part lawned. The configurations and sizes of gardens in the vicinity are extremely varied – comprising both awkwardly-shaped small plots at 11 and 15 Landermere Road, long narrow plots at 31 and 33 High Street. Both new dwellings resulting from 18/01388/FUL provided a comfortable 100sqm.

6.47 Overall the new development would provide a high standard of amenity for existing and future users and would protect the amenity of existing residents and users with regard to loss of light, overbearing and overlooking.

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

6.48 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. The contribution is secured by unilateral undertaking.

6.49 The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 2,332 metres from Hamford Water SPA and Ramsar. However, new housing development within the Zol would be likely to increase the number of

recreational visitors to Hamford Water; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

6.50 A unilateral undertaking has been requested to secure this legal obligation and is currently being prepared.

Public Open Space

6.51 Paragraph 54 of the National Planning Policy Framework (2019) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

6.52 Section 2 Policy HP5 states that The Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update. Financial contributions will also be sought through s106 legal agreements (or an appropriate alternative mechanism) towards ongoing maintenance.

6.53 In line with the requirements of Section 2 Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that there is currently a deficit of 2.43 hectares of play and formal open space in Thorpe-le-Soken.

6.54 The Parish have recently developed another area of open space known as Lockyer Wood. They have included some play provision but this is an ongoing project to provide reduce the deficit of play facilities in Thorpe.

6.55 Due to the significant lack of provision in the area if it felt that a contribution, is justified and relevant to the planning application and that this money would be used towards providing additional facilities at Lockyers Wood.

6.56 A unilateral undertaking has been requested to secure this legal obligation and is currently being prepared.

7. Conclusion

7.1 The principle of residential development in this locality is supported by Local Plan policy. The proposal will have a neutral impact on the character and appearance of the conservation area and does not amount to any visual harm, harm to residential amenities nor harm to highway safety that would warrant refusal of planning permission. The application is therefore recommended for approval.

8. Recommendation

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 be begun before the expiration of three years from the date of this permission.

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

2 The development hereby permitted shall be carried out in accordance with the following approved plans: 001, 110, 112, 210 and 211; received 26th November 2021 and OS 2015-20.2 REV A, OS 2015-20.3; received 26th November 2021 and the recommendations contained within the Arboricultural Impact Assessment, OS 2015-20-Doc1 Rvs A; received 26th November 2021.

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

3 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.

4 For the existing parking spaces to the rear of the Chinese Cottage Restaurant shall as per the Essex Parking Standards (Parking Standards: Design and Good Practice, Sept 2009) have a minimum 6 metres provided behind each parking space to allow for manoeuvring.

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

5 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.

6 The 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.

7 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.

8 No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:

i. the parking of vehicles of site operatives and visitors
ii. loading and unloading of plant and materials
iii. storage of plant and materials used in constructing the development
iv. wheel and underbody washing facilities

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

9 Sample panels of the exterior brickwork demonstrating the colour, texture, face bond and pointing are to be erected on site and approved in writing by the Local Planning Authority before the relevant parts of the work are commenced. The development shall be completed in accordance with the approved details before the building is occupied.

Reason - The development is publicly visible and therefore sympathetic materials are a visually essential requirement.

10 Before the installation of all external windows/doors, details which confirm that the frames will be timber (indicating the colour and finish), shall be submitted to and approved in writing by the local planning authority. The development shall be carried out and retained for the lifetime of the development in accordance with the approved details.

Reason - The development is publicly visible and therefore sympathetic materials are a visually essential requirement.

11 No development or preliminary ground-works can commence until a programme of archaeological trial trenching has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority. Following the completion of this initial phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ through re-design of the development, shall be submitted to the local planning authority.

Reason - The Tendring Historic Environment Characterisation project and Essex HER show that the proposed development is located within an area with potential for below ground archaeological deposits. The development could result in harm to non-designated heritage assets with archaeological interest.

12 No development or preliminary ground-works can commence until a programme of archaeological evaluation has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority.

Reason - The Tendring Historic Environment Characterisation project and Essex HER show that the proposed development is located within an area with potential for below ground archaeological deposits. The development could result in harm to non-designated heritage assets with archaeological interest.

13 Following completion of the archaeological fieldwork, the applicant will submit to the local planning authority a post-excavation assessment (within six months of the completion date, unless otherwise agreed in advance with the planning authority), which 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 Tendring Historic Environment Characterisation project and Essex HER show that the proposed development is located within an area with potential for below ground archaeological deposits. The development could result in harm to non-designated heritage assets with archaeological interest.

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 application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017. Please note that any subsequent variation / removal of condition applications (s73 applications) will require a new legal agreement to secure this obligation unless the development has commenced (subject to all necessary condition discharges) and the contribution has already been paid.

Legal Agreement Informative - Open Space/Play Space Contribution:-

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Public Open Space financial contribution in accordance with Policy COM6 of the adopted Tendring District Local Plan (2007) and Policy HP5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft. Please note that any subsequent variation / removal of condition applications (s73 applications) will require a new legal agreement to secure this obligation unless the development has commenced (subject to all necessary condition discharges) and the contribution has already been paid.

Highways:-

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

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.

9. Additional Considerations

9.1 Public Sector Equality Duty (PSED)

9.2 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.

9.3 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.

9.4 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.

9.5 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

9.6 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.

9.7 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).

9.8 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.

10. Finance Implications

10.1 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.

10.2 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.

11. Background Papers

11.1 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/.