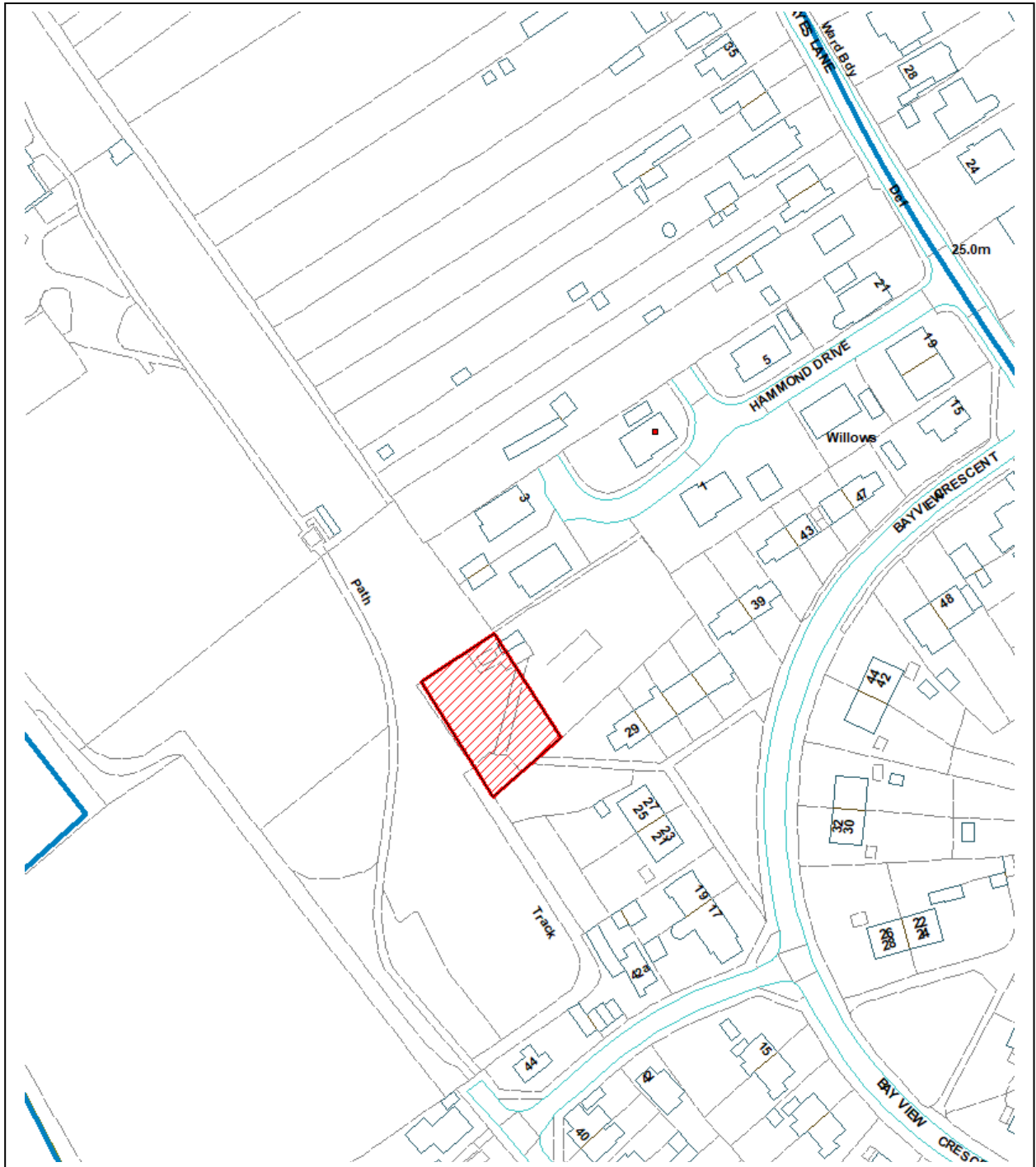


PLANNING COMMITTEE

10<sup>th</sup> May 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.4 PLANNING APPLICATION – 22/00250/FUL – LAND TO THE SOUTH WEST OF  
HAMMOND DRIVE RAMSEY CO12 5EJ**



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**Application:** 22/00250/FUL

**Town / Parish:** Little Oakley Parish Council

**Applicant:** Palmby - Tucia Properties LTD

**Address:** Land to The South West of Hammond Drive Ramsey CO12 5EJ

**Development:** Proposed erection of a 3 bedroom, 1.5 storey dwelling (alternative scheme to replace two dwellings previously approved within 20/00342/FUL).

## 1. **Executive Summary**

- 1.1 The application has been called in by Councillor Bush on the grounds that the proposal will create a negative impact on the street scene and adjacent neighbours, that it forms part of a wider piecemeal development of the site without affordable housing contributions, and that it will impact on a part disused footpath connecting Bay View Crescent to Lodge Road.
- 1.2 The proposal is for the construction of one dwelling, which will be of a 1.5 storey chalet bungalow design, in place of two dwellings previously approved within planning permission 20/00342/FUL.
- 1.3 The dwelling, while acknowledged to be of a larger design than either of the existing bungalows previously approved or those dwellings contained within the Hammond Drive development, is not considered to represent a form of overdevelopment given that the overall footprint is broadly similar to that previously granted permission.
- 1.4 There are no concerns raised regarding the impact on the neighbouring residential properties and subject to conditions the development is also considered to be acceptable in regards to Highways and Parking, and impacts to trees.
- 1.5 Issues relating to the piecemeal development of the wider site and associated lack of affordable housing provision, are not a material consideration to this particular planning application. However, this issue has previously been addressed and settled within planning permission 20/00342/FUL, where it was concluded that the wider development should not have been subject to affordable housing provision. This proposal (for one dwelling where two dwellings were previously approved) also does not trigger an affordable housing contribution due to the small scale nature of the proposal.

### **Recommendation:**

That the Assistant Director for Planning be authorised to grant planning permission for the development subject to:-

- a) 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 Planning Policy Framework July 2021 (The Framework)  
National Planning Practice Guidance

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                             |
| LP2   | Housing Choice                             |
| LP3   | Housing Density and Standards              |
| LP4   | Housing Layout                             |
| LP5   | Affordable Housing                         |
| LP8   | Backland Development                       |
| PPL5  | Water Conservation, Drainage and Sewerage  |
| PPL10 | Renewable Energy Generation                |
| CP1   | Sustainable Transport and Accessibility    |

Supplementary Planning Guidance:

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

Essex County Council Parking Standards Design and Good Practice Guide 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

|                 |                                                                                                                                      |          |            |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------------|----------|------------|
| 16/02084/OUT    | Alteration of one dwelling and erection of 5 no. bungalows.                                                                          | Approved | 04.04.2017 |
| 17/01150/DETAIL | Reserved matters application following outline approval 16/02084/OUT - Alteration of one dwelling and erection of 5 no. bungalows.   | Approved | 06.10.2017 |
| 17/01913/DISCON | Discharge of condition 2 (construction method statement) of planning permission 17/01150/DETAIL.                                     | Approved | 07.11.2017 |
| 20/00342/FUL    | Proposed erection of 5 single storey three bedroom dwellings.                                                                        | Approved | 06.10.2020 |
| 20/01698/DISCON | Discharge of conditions 3 (Landscaping Scheme) and 13 (Construction Method Statement) of approved planning application 20/00342/FUL. | Approved | 19.01.2021 |

### 4. Consultations

UU Open Spaces  
22.03.2022

Response from Public Realm  
Open Space & Play

Application Details

Application No: 22/00250/FUL

Site Address: Land to The South West of Hammond Drive Ramsey Essex

Description of Development Proposed erection of new 3 bedroom, two storey dwelling  
Current Position

There is currently a deficit of -1.08 hectares of equipped play/open space in Little Oakley.

Currently there is only one play area in Little Oakley and limited open space that is available to the residents.

#### Recommendation

The parish have identified the need to increase the open space and play provision in Lt Oakley, they have obtain some land from Essex County Council in which they will provide play equipment. Therefore a contribution is both justified and relevant to this application, any contribution will be used to create a new play provision at Lodge Road Field, Lodge Road, Little Oakley.

Tree & Landscape Officer  
14.03.2022

There are no trees or other significant vegetation situated in the main body of the land. However there is a mature Oak situated on the south western boundary of the application site.

The tree is a mature healthy specimen although it is leaning to the west. There is no apparent reason for this. The position of the tree is such that it is not a prominent feature in its setting and consequently makes only a moderate contribution to the amenity of the locality.

In terms of the impact of the development proposal on the health and long term viability of the tree it is considered that the position of the tree is such that it is not a significant constraint on the development potential of the land.

It is not considered expedient or necessary to afford the tree formal legal protection by means of a tree preservation order

Nevertheless, should planning permission be likely to be granted then a condition should attached to ensure that the Root Protection Area (RPA) of the tree, is physically protected for the duration of the construction phase of the development.

This information should be in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.

ECC Highways Dept  
14.03.2022

The information that was submitted in association with the application has been fully considered by the Highway Authority. The proposal is situated just off Hammond Drive, a cul-de-sac and it is noted that this application is an alternative scheme to replace two dwellings approved previously with a one 3-bedroom dwelling. The revised proposal provides adequate parking and turning therefore:

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

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

2. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

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

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

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

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.

5. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

6. The proposed dwelling shall not be occupied until

such time as the vehicle parking area indicated on the approved plans, sealed and if required marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

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 in accordance with policies DM9 and DM10.

8. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the estate road.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the estate road is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

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: On the completion of the dwelling, 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.

2: 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](mailto:development.management@essexhighways.org)

3: The applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway. Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence.

4: 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.

## **5. Representations**

5.1 Little Oakley Parish Council object to the planning application on the following grounds:

- The proposal is backland development and does not satisfy LP8 on the basis it will be on the edge of a defined settlement and will produce a hard urban edge, and is out of character and could set a harmful precedent for other similar forms of development;
- The proposal is over-development;
- The wider development of Hammond Drive is happening on a piecemeal basis; and
- The two storey property is not in-keeping with the existing bungalows it adjoins.

5.2 The Parish Council have also stated that if minded to approve the application, they would be pleased to support the reopening of the abandoned/deregistered public right of way running from Bayview Crescent to the area of Safeguarded Local Green Space to the west of the site, as this would be advantageous to residents of Bayview Crescent and the surrounding area. A small slither of land in the south corner of the site would have to be given over to facilitate this footpath though.

5.3 There was initially one other letter of objection received from a local resident regarding potential loss of privacy, however this letter was shortly withdrawn. Therefore there are no other letters of representation that have been received.

## **6. Assessment**

### Site Description

6.1 The application site relates to a parcel of land approximately 0.08 hectares in size, which is located to the south west of Hammond Drive, off Mayes Lane, within the Parish of Little



Oakley. The site falls within the Settlement Development Boundary of Little Oakley as defined within the Adopted Local Plan.

- 6.2 The character of the immediate surrounding area is predominantly urban in nature, with residential properties located to the north, east and south. To the west the character is more rural, with large areas of grassed and agricultural land.
- 6.3 To the south of the site is Bayview Crescent leading through to Lodge Road which provides pedestrian access to the open space to the west of the site and the Primary School to the north via a Public Right of Way.

#### Description of Proposal

- 6.4 This application seeks planning permission for an alteration to the scheme approved under planning reference 20/00342/FUL, which allowed for five dwellings in total and specifically two dwellings on the site subject of this application.
- 6.5 The amendment proposed is to replace the two previously approved bungalows located to the western edge (Plots 4 and 5) of that scheme, with a single 1.5 storey chalet bungalow dwelling that will serve three bedrooms. This will result in a net loss of one dwelling, with the remaining three approved dwellings unaffected by this proposal.

#### Planning History

- 6.6 Under planning references 16/02084/OUT and 17/01150/DETAIL, in April 2017 and October 2017 respectively, planning permission was granted for the erection of five bungalows including alteration to 21 Mayes Lane.
- 6.7 Under planning reference 18/01772/FUL, planning permission was then granted to demolish one existing dwelling (17 Mayes Lane), and replaced with two semi-detached bungalows.
- 6.8 Of most particular importance is planning reference 20/00342/FUL, approved in September 2020, for the erection of five dwellings on the application site subject of this planning application as well as additional land adjacent to the east. Two of the five approved dwellings were sited on the land subject of this planning application.

#### Principle of Development

- 6.9 There has been a significant recent change in local plan policy, with the Council in January 2021 and January 2022 respectively having adopted Section 1 and Section 2 of the Local Plan to cover the period of 2013-2033, and being able to demonstrate a five year housing land supply.
- 6.10 Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The application site lies within the defined settlement boundary for Little Oakley in the 2013-2033 Local Plan. Therefore, the principle of residential development in this location is acceptable subject to the detailed considerations as set out below.

#### Layout, Scale and Appearance

- 6.11 Paragraph 130 of the National Planning Policy Framework 2021 (NPPF) 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.

- 6.12 Adopted Policy SP7 of Section 1 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 that relates well to its site and surroundings, create a unique sense of place. Furthermore, Adopted Policy LP4 states the design and layout of new residential developments is expected to provide for amenity space of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of the dwelling and character of the area.
- 6.13 The proposed development will replace two bungalows with a single chalet bungalow style dwelling, which is to be served by three bedrooms and of an 'L-Shape' design. This dwelling will be 1.5 storeys in height, and will include a front canopy, two front and rear dormers, a rear balcony area and a single storey side element, all of which aid in breaking up the bulk of the property. The development also includes a large garage that connects to the dwelling, which will be single storey.
- 6.14 It is acknowledged that the dwelling overall is larger than those previously approved and those located adjacent, and this has also been referenced by the Local Ward Member and Little Oakley Parish Council. However, it must also be recognised that there are two dwellings approved on the application site, and this permission remains extant and can be implemented regardless of the outcome of this application. The previous permission, accounting for the two bungalows and garages, included a footprint of 291.7sqm (when calculating the gross external area), while the current developments equals 373.8sqm, although this includes the first floor area; the actual footprint itself equals 307sqm.
- 6.15 Given the above calculations and that the plot retains a minimum of 2 metres to each boundary, while there is an increase in floor space and the dwelling is large in comparison to surrounding properties, this is not to the extent that it would be harmful to the character of the area or that it would represent a development proposal with symptoms of overdevelopment such as a disproportionate footprint relative to the site or excessive scale and bulk. That notwithstanding, a condition is recommended to restrict permitted development rights for any future extensions to the dwelling or outbuildings, in order to avoid the site becoming overdeveloped in the future.
- 6.16 The existing and previously approved dwellings immediately adjacent are bungalows, and it is accepted that the 1.5 storey design differs from these. However, the wider areas character, including along Bayview Crescent and Mayes Lane, includes two storey as well as single storey properties. In addition, the design of the proposed dwelling does not significantly differ from a bungalow design, with the key difference being that there are rooms included within the roof area. Therefore, the harm identified with this differing design is not considered to be sufficient to warrant recommending a reason for refusal.
- 6.17 Reference within the call-in request has been made that the proposal is a form of backland development. However, the development cannot be considered backland being bounded by existing residential development and being a continuation of Hammond Drive. The Development does not extend rearward beyond the existing built form and will not appear out of keeping with the existing pattern of development nor set a harmful precedent.

#### Residential Amenities

- 6.18 Paragraph 130 of the National Planning Policy Framework (2021) confirms planning policies and decisions 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.

- 6.19 Policy SP7 of Section 1 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.
- 6.20 The nearby residential properties most likely impacted by the proposed development are those adjacent to the east previously approved under planning permission 20/00342/FUL (Plots 1 and 3). However, there is a separation distance of 10 metres to Plot 1 and 14 metres to Plot 3, which reduces potential for significant loss of sunlight/daylight and the dwelling appearing oppressive. While the dwelling is located much closer to the garden areas of these plots (1 metre to Plot 1 and 7 metres to Plot 3), it must be acknowledged that under the previous consent the two approved bungalows were both located approximately 1 metre to each plot, so there is an overall slight improved position with this revised proposal.
- 6.21 To avoid potential overlooking concerns from the first floor front elevation dormers into the rear garden areas of Plots 1 and 3, amended plans have been provided to highlight that the windows that could overlook will be obscure glazed. These windows serve en-suites in any case.
- 6.22 Therefore, there are no identified issues that are significantly harmful enough to neighbouring amenities to warrant recommending a reason for refusal.

#### Access and Parking

- 6.23 Paragraph 108 of the NPPF 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 adopted Local Plan 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.
- 6.24 Essex Highways Authority acknowledge the proposal is to replace two previously approved dwellings, note it provides sufficient parking and turning, and have therefore raised no objections subject to conditions relating to pedestrian visibility splays, the use of no unbound materials, no discharge of surface water onto the highway, the width of the access, any boundary planting being set 1 metre back, and areas allocated for loading, unloading, reception and storage of building materials. An additional condition has been requested for the submission of a Residential Travel Information Pack, however given the minor nature of the proposed scheme it would not be reasonable to impose this condition.
- 6.25 The Car Parking Standards (2009) require that for dwellings with two or more bedrooms, a minimum of two parking spaces are required. Parking spaces should measure 5.5 metres x 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres x 3 metres internally.
- 6.26 The dwelling includes a large garage that can accommodate two vehicles at the above measurements, while there is also additional space to the front of the property in any case, and thereby the above parking standards are adhered to.

#### Tree and Landscaping

- 6.27 There are no trees or other significant vegetation situated in the main body of the land. However there is a mature Oak situated on the south western boundary of the application site.

- 6.28 The tree is a mature healthy specimen although it is leaning to the west. There is no apparent reason for this. The position of the tree is such that it is not a prominent feature in its setting and consequently makes only a moderate contribution to the amenity of the locality.
- 6.29 In terms of the impact of the development proposal on the health and long term viability of the tree, the position of the tree is such that it is not a significant constraint on the development potential of the land. As such, it is not necessary to afford the tree formal legal protection by means of a tree preservation order.
- 6.30 Nevertheless, in the event that planning permission be granted, a condition is recommended to be attached to ensure that the Root Protection Area (RPA) of the tree is physically protected for the duration of the construction phase of the development.

#### Legal Obligations – Affordable Housing

- 6.31 Paragraph 64 of the NPPF (2021) states provision of affordable housing should be sought for residential developments that are major developments. Within the glossary of the NPPF (2021), major development is defined as development where ten or more homes will be provided, or the site has an area of 0.5 hectares or more.
- 6.32 Adopted Local Plan Policy LP5 states that the Council will expect for schemes of 11 or more (net) homes, 30% of new dwellings to be made available for affordable housing.
- 6.33 The proposal subject of this planning application is for one dwelling in place of two previously approved dwellings, on a site measuring approximately 0.08 hectares. As such, if the site was to be considered in isolation it would not fall within the definition of a major development set out within NPPF (2021) and consideration against the affordable housing policies would not apply.
- 6.34 However, as raised within the Member call-in and by Little Oakley Parish Council, there is concern that through a series of planning applications the requirement to provide affordable housing has previously been bypassed. It is, however, important to acknowledge that the proposal subject of this planning application results in a net loss of one dwelling compared to the scheme previously approved in 2020 (reference 20/00342/FUL). Therefore, the question of whether an affordable housing contribution is required is not a material consideration for this particular planning application, and was instead discussed within the decision for 20/00342/FUL. Below is an extract from the Case Officer's report at that time which explains why a contribution was not required on that occasion:
- 6.35 *In the case of New Dawn Homes Ltd v S S for C & L G and Tewkesbury B C [2016] EWHC 3314 (Admin), Mr Justice Holgate sitting in the High Court endorsed the approach taken in R (Westminster City Council) v First Secretary of State and Brandlord Limited [2003] J.P.L 1066 to determine the factual question of whether two development sites could be aggregated or considered to form part of a larger whole. Those criteria were ownership, whether the areas of land could be considered to be a single site for planning purposes, and whether the development should be treated as a single development.*
- 6.36 *In terms of ownership, Tocia Properties Ltd have never been in a position to submit one planning application for all three sites. This is not a case of site splitting but of site assembly. The land for 16/02084/OUT was bought by Tocia in May 2018. 18/01772/FUL was still in the ownership of others when the permission was granted. The land for 20/00342/FUL was only acquired after planning permission for the two other applications had been granted.*

➤ *Single Site for planning purposes*

- 6.37 *The 2016 and 2018 sites were separate dwellings and gardens and separate planning units. The 2020 and current site is a field.*
- *Treated as a single development*
- 6.38 *Development on the 2016 and 2018 sites with permission have already occurred and were not dependant on the development proposed within the 2020 permission or that being applied for.*
- *Other considerations*
- 6.39 *At the time of 16/02084/OUT and 18/01772/FUL the TDC local plan did not require affordable housing and no national policy or other material consideration required affordable housing for the applications. It follows that there could be no intention to avoid having to provide affordable housing.*
- 6.40 *The current application is not an example of deliberate 'site splitting' and an affordable housing contribution is not application to this development.*
- 6.41 Given the above assessment, it has already been clarified within a previous planning permission why affordable housing provision was previously not requested. That notwithstanding, this planning application seeks a net loss of one dwelling compared to the existing, baseline position, and in any case it would therefore not be reasonable to request affordable housing provision on this occasion.

#### Planning Obligation - Recreational Disturbance Contribution

- 6.42 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. Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings that are located within Zones of Influences (Zol) secured through the Unilateral Undertaking process.
- 6.43 This residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, being approximately 1.6km away from Hamford Water RAMSAR and SAC, and approximately 1.34km from Stour and Orwell Estuaries RAMSAR and SPA. New housing development within the Zol would be likely to increase the number of recreational visitors to the Colne Estuary 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.
- 6.44 The application is accompanied by a completed UU to secure the financial contribution in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. The proposal therefore complies with Policy SP2 and Policy PPL4 of the adopted Tendring District Local Plan 2013-2033 and Beyond, and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

#### Planning Obligation - Open Space and Play Space

- 6.45 Policy HP5 of the adopted 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 s106 legal agreement. The contribution

would be used towards the delivery of improvements, expansion or new open spaces and/or sports facilities.

- 6.46 There is currently a deficit of -1.08 hectares of equipped play/open space in Little Oakley. There is a need to increase the open space and play provision in the area, with the Parish Council having confirmed they have obtained land from Essex County Council to provide for play equipment. Therefore, a contribution is both justified and relevant to this application, and any contribution will be used to create a new play provision at Lodge Road Field, Lodge Road, Little Oakley. A completed unilateral undertaking has been provided to secure this legal obligation.

#### Drainage and Foul Water Disposal

- 6.47 Paragraph 174 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 185 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.
- 6.48 Policy PPL5 of Section 2 of the adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.
- 6.49 The application form accompanying the application has stated that the development would be connected to the existing public foul sewer. This is in accordance with the above policy requirements and is therefore considered to be acceptable in the event of an approval.

#### Climate Change and Renewable Energy/Energy Efficiency

- 6.50 Recently adopted Policy SPL3, Part B criterion d), states that an applicant must demonstrate how the proposal will minimise the production of greenhouse gases and impact on climate change, as per the Building Regulations prevailing at the time and policies and requirements in the Local Plan. Following the Council declaring a climate emergency and its adoption of Policy PPL10, there is a requirement for a Renewable Energy Generation Plan (REGP), to set out measures that will be incorporated into the design, layout and construction, aimed at maximising energy efficiency and the use of renewable energy.
- 6.51 Under Policy PPL10 measures to be considered include the provision of electric vehicle charging points. Paragraph 112 e) of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.  
In accordance with the above policies the use of a planning condition to require the submission of a REGP to include the provision electric vehicle charging points is reasonable and necessary, and the applicant is agreeable to this.

#### Other Considerations

Re-opening of Public Right of Way:

- 6.52 To the south of the site there is an existing, unused and closed off alleyway between the properties fronting Bayview Crescent. This is not a Public Right of Way and Essex County Council have no record that it ever was and is not in their ownership.

- 6.53 There has been requests from the Local Ward Member and Little Oakley Parish Council that the re-opening of this alley should be secured as part of this application.
- 6.54 A request of this nature would need to be considered reasonable, relevant to the development and necessary to making the application acceptable. This would also be subject to land ownership and maintenance. Access to the open space is available via the existing access via Lodge Road being only a short walk from the location of the pathway (approximately 130 metres). On this basis, an alteration to the planning application to secure a throughway along the site boundary and the re-opening of this pathway would be wholly unreasonable and unnecessary and could not be secured as part of this minor scale application which is acceptable in all regards.

## **7. Conclusion**

- 7.1 The proposed development will see the replacement of two dwellings previously approved under planning permission 20/00342/FUL with one dwelling. While it is acknowledged that the new dwelling is larger than the previously approved bungalows, the footprint does not significantly differ, and the overall design is considered to be acceptable.
- 7.2 In addition, subject to the recommended conditions there is no significant identified harm to neighbouring amenities, highway safety or trees on site. A Unilateral Undertaking agreement has been completed for contributions towards both Open Space and RAMS.
- 7.3 Therefore, the proposal is considered to comply with local and national planning policies, and in the absence of material harm the application is 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:

Drawing No.: 6104\_P01 - Location Plan  
Drawing No.: 6104\_P02 Rev A – Existing and Proposed Block Plan  
Drawing No.: 6104\_P03 Rev A – Proposed Ground Floor Plan  
Drawing No.: 6104\_P04 Rev A – Proposed First Floor Plan  
Drawing No.: 6104\_P05 Rev A – Proposed Roof Plan  
Drawing No.: 6104\_P06 Rev C – Proposed Front and Rear Elevations  
Drawing No.: 6104\_P07 Rev B – Proposed Side Elevations

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

- 3 No development shall take place until the mature Oak tree on the site, agreed with the Local Planning Authority for inclusion in the scheme of landscaping, has been protected by the erection of temporary protective fences of a height, size and in positions which shall

previously have been agreed, in writing, with the Local Planning Authority. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected. Any trees dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with trees of appropriate size and species during the first planting season, or in accordance with such other arrangement as may be agreed in writing with the Local Planning Authority, following the death of, or severe damage to the trees.

Reason - To ensure that no development impacts upon the protected trees.

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

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

- 5 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety.

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

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

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

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

- 8 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

- 9 The proposed dwelling shall not be occupied until such time as the vehicle parking area indicated on the approved plans, sealed and if required marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

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



- 10 Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading/unloading/reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the estate road.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the estate road is not obstructed during the construction period in the interest of highway safety.

- 11 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no additions or alterations to the dwellings or their roofs, nor shall any buildings, enclosures, swimming or other pool be erected except in accordance with drawings showing the design and siting of such additions and/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 the interests of visual amenity and residential amenities.

- 12 No development shall be commenced until a Renewable Energy Generation Plan (REGP) has been first submitted to and approved in writing by the local planning authority. The REGP shall provide for electric vehicle charging point(s) for the dwelling (Type 2, 32 Amp), and set out measures that will be incorporated into the design, layout and construction, aimed at maximising energy efficiency and the use of renewable energy. Thereafter, the development shall comply with the REGP and any approved measures shall be implemented prior to first occupation.

Reason: In order to ensure that the development contributes towards reducing carbon emissions in addressing climate change, in accordance with Policy PPL10 and SPL3.

### 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.

Highways Informatives:

On the completion of the dwelling, 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.

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](mailto:development.management@essexhighways.org)

The applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway. Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence.

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**

### 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/>.