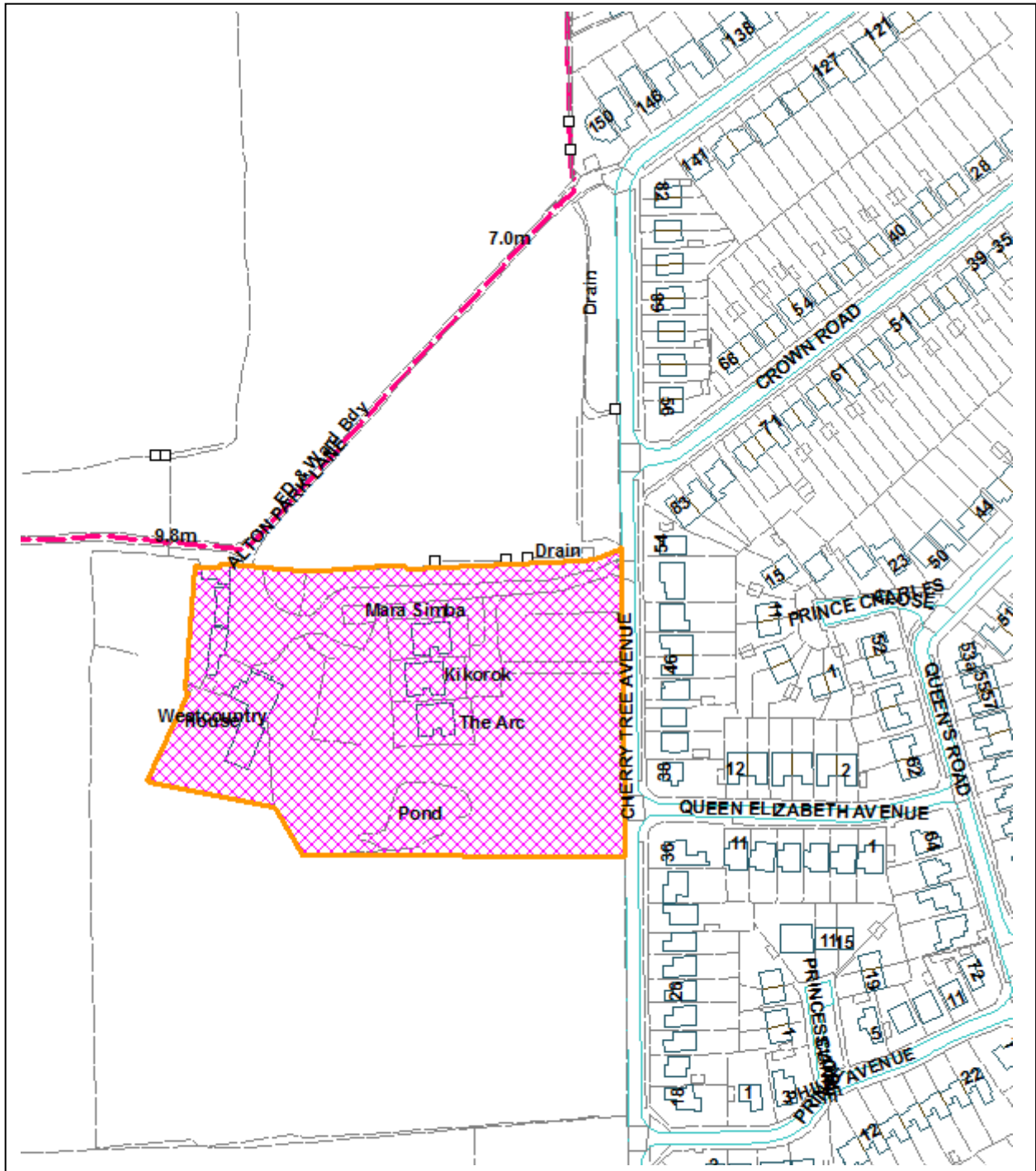


PLANNING COMMITTEE

6th September 2017

REPORT OF THE HEAD OF PLANNING

A.1 PLANNING APPLICATION - 17/00948/FUL - WEST COUNTRY HOUSE CHERRY TREE AVENUE CLACTON ON SEA CO15 1AR



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Application:	17/00948/FUL	Town / Parish: Clacton Non Parished
Applicant:	Mr R Shah - Tiku Homes Ltd	
Address:	West Country House Cherry Tree Avenue Clacton On Sea CO15 1AR	
Development:	Proposed new access road onto Cherry Tree Avenue.	

1. Executive Summary

- 1.1 This application is brought before Planning Committee at the request of Cllr. C. Griffiths who objects to the application as it will have a damaging impact on privacy; considers it will not enhance the character of area or maintain or enhance the existing features of the landscape or Green Gap and change the character, distinctiveness and unique quality of the location.
- 1.2 West Country House is situated to the west of Cherry Tree Avenue; it is set to the rear of three detached bungalows which are set back from the road. The site comprises of a large detached dwelling and outbuildings and is accessed via a long driveway which also serves the three bungalows. There are also 4 further bungalows which are currently under construction to the south of the existing bungalows.
- 1.3 This application seeks planning permission for a proposed new access onto Cherry Tree Avenue. The proposed new section of road measures 6 metres in width and provides a link between the new access granted permission under application 17/00725/FUL and Cherry Tree Avenue. It is also proposed to extend the section of the access road approved under application 16/00731/FUL further towards West Country House to provide a turning head for fire appliances.
- 1.4 The large area of space in front of the dwelling is one of the main characteristics of the site and as this is retained it is considered that the open character of the area is kept and there would be no significant adverse impact on the character and appearance of the Green Gap.
- 1.5 The proposed access road will not result in an increase in the level of traffic accessing the site; therefore it is considered that the proposal would not result in any adverse impact on the amenities of the neighbouring residents.
- 1.6 The proposal would not generate any increase in traffic accessing the site. The Highway Authority have raised concern that the proposed access exceeds their policy requirements and state that the existing access road is perfectly adequate for the number of units on this site. This may be case however, in planning terms there is no reason for them to provide justification for the proposal. Furthermore, whilst the proposal may be larger than required, it does not make it unsafe and therefore a reason on highway safety reasons cannot be justified.

Recommendation: Approve

Conditions:

Standard Time Limit

In accordance with Approved Plans

No loose or unbound material within 6m of the highway boundary

Informative

All works which affect the existing highway to be arranged in agreement with Essex County Council Highways.

2. Planning Policy

National Planning Policy Framework (NPPF)
National Planning Policy Guidance

Tendring District Local Plan 2007

QL9 Design of New Development
QL10 Designing New Development to Meet Functional Needs
QL11 Environmental Impacts and Compatibility of Uses
EN1 Landscape Character
EN2 Local Green Gaps
EN3 Coastal Protection Belt
TR1A Development Affecting Highways

Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017

SPL3 Sustainable Design
LP4 Housing Layout
PPL3 The Rural Landscape
PPL6 Strategic Green Gaps

Supplementary Planning Guidance

Parking Standards Design and Good Practice Guide (2009)
Essex Design Guide (2005)

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. As this plan is yet to be examined, its policies cannot carry the full weight of adopted policy. However, because the plan has reached publication stage its policies can carry some weight in the determination of planning applications. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

3. Relevant Planning History

93/01450/OUT	Proposed demolition of 3 dwellings, re-siting and replacement of same with 2 bungalows	Refused	22.02.1994
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96/00317/FUL	Proposed demolition and replacement of three bungalows together with garages	Approved	23.04.1996
97/00176/FUL	Proposed demolition and replacement of three bungalows and garages at variance to approval TEN/96/317	Approved	11.03.1997
99/01470/FUL	3 bungalows	Refused	24.11.1999
95/00005/TEL COM	Erection of 15 metre telecommunications mast and associated equipment cabins	Determination	10.03.1995
00/02094/FUL	Proposed dwellings	Approved	09.02.2001
11/01003/OUT	Demolition of existing house and outbuildings and the construction of eight single storey houses in a courtyard setting.	Refused – Dismissed at Appeal	25.10.2011
13/00598/OUT	Outline planning application for eight dwellings.	Refused – Dismissed at Appeal	25.07.2013
13/00956/OUT	Outline planning permission for 7 aspirational type dwellings.	Refused – Dismissed at Appeal	17.10.2013
14/01500/OUT	Erection of 5 new dwellings.	Refused – Dismissed at Appeal	22.12.2014
16/00731/FUL	Proposed 4 No. detached bungalows and garages.	Approved	09.09.2016
16/01605/DISCON	Discharge of conditions 3 (Access roads), 4 (Materials) and 5 (Hard and Soft Landscaping) of approved planning application 16/00731/FUL.	Approved	28.11.2016
17/00725/FUL	Proposed new access road to serve new development approved under 16/00731/FUL.	Approved	21.07.2017
17/00948/FUL	Proposed new access road onto Cherry Tree Avenue.	Current	

4. Consultations

ECC Highways Dept

In principle does not objection to a new access in this location to

serve the 8 units on site. However, Cherry Tree Avenue forms the edge of the residential estate and the Green Gap, it is a quiet estate road and the existing access is perfectly adequate for the number of units on this site.

The proposed 6m wide route with a 2m footway does not accord with current standards and is therefore against policy DM1, point iii, which states; new access points will be designed and constructed in accordance with the current standards.

The site currently hosts 8 residential units and as such a 6 metre wide shared use route would be the maximum this Authority will accept as highway.

As proposed, an access road of these dimensions is detailed in the current Essex Design Guide as catering for 700 residential properties for a through-route, 400 on a loop, or 200 on a cul-de-sac. This size of access road proposed is therefore hugely excessive and over-urbanisation.

The proposal is therefore contrary to the relevant policies contained within the County Highway Authority's Development Management Policies.

If a new access route is being proposed to cater for a future far larger residential development of the sizes suggested above, then this application is premature as larger proposals would need to be supported with a full Transport Assessment. This assessment would detail i) The level of traffic increase associated with the site, ii) Whether the surrounding road network was able to accommodate this increase in traffic, and therefore iii) The size of access road necessary to cater for the new estate roads.

Notwithstanding the above, however, if the Local Planning Authority is minded to grant permission for this new access, this Authority would request the new road provide the following;

- 1) No loose or unbound material within 6m of the highway boundary
- 2) The road being no less than 6m in width
- 3) The footway measuring no less than 2m in width
- 4) All turning facilities in accordance with current policy standards
- 5) All works which affect the existing highway to be arranged in agreement with this Authority.

5. Representations

5.1 The application was requested to be determined at Planning Committee by Cllr. C. Griffiths who objects to the amended plans submitted as part of this application for the following reasons:

- It is difficult to understand why a replacement road is needed.
- The drawings do not show West Country House.
- The proposal will have a damaging impact on privacy of existing residents.
- The application will not enhance the local character of distinctiveness of the location it will change the character, distinctiveness and unique quality of the location.

- The creation of an access road in a strategic green gap will not relate well to existing surroundings, it is difficult to see how it will enhance the existing street scene pattern or the open space at the front of the development.
- The proposal will not maintain or enhance the existing features of landscape.
- The proposal will have a materially damaging impact on the privacy of nearby properties.
- The policy approach to conserve Green Gaps forms an important part of the Council's Spatial Strategy approach to restrict development, in the main, to settlements and site identified through the development plan. This is consistent with the framework which states in paragraph seven that part of the environmental role is to protect and enhance the natural environment. This proposal will not protect or enhance the natural environment.

5.2 3 letters of objection were received in relation to the original plans submitted, which raised the following concerns:

- The proposal disregards and opens up the strategic green gap.
- This proposal appears to be part of a plan to get planning approval by a piecemeal approach for future building in the green gap.
- Would change the character of a rural area into an estate.
- Lose the physical separation between settlements.
- Applicant has been forced by the council to remove a road previously in this area.

5.3 In response to the amended plans, a further 3 letters of objection were received which raise the following concerns (in addition to those above):

- Noise, disturbance and dust caused by construction works.
- Construction in the Coastal Protection Belt is not permitted.
- Proposed new road will give access to both the new approved development and to numerous other bungalows (subject to planning) and will destroy the whole frontage of the existing bungalows.
- Create a risk to children and adults.
- Proposed new road has a material damaging impact on the privacy of the occupiers of the existing bungalows.
- Screening of the areas of the 3 existing bungalows has been greatly reduced by the development and will be further reduced by the removal of bushes and trees on the site of this proposed access road.

6. Assessment

Site Location

- 6.1 West Country House is situated to the west of Cherry Tree Avenue; it is set to the rear of three detached bungalows which are set back from the road. The site comprises of a large detached dwelling and outbuildings and is accessed via a long driveway which also serves the three bungalows. There are also 4 further bungalows which are currently under construction to the south of the existing bungalows.
- 6.2 The area to the east of Cherry Tree Avenue has been comprehensively developed with housing. However, the area to the west is largely undeveloped and rural in character. The site and adjoining bungalows represent an isolated exception to this rural character.

Planning Background

- 6.3 The site has been subject to a number of previous applications in recent years. Application 11/01003/OUT sought outline planning permission, with all matters reserved for the demolition of the existing house and outbuilding and the construction of 8 dwellings. This indicative layout showed 8 dwellings in a horse shoe shape to the rear of the site. This

application was refused and dismissed at appeal in April 2012. The Inspector concluded that the proposal would not comply with the development plan policies on the location of development (within a Green Gap and Coastal Protection Belt) and would have a harmful effect on the character and appearance of the area.

- 6.4 Application 13/00598/OUT was a resubmission of the above application and sought outline planning permission with all matters reserved for 8 dwellings; this was refused in July 2013. Shortly after this, in October 2013 outline planning permission was refused for 7 no. detached dwellings to the rear of the site behind the existing bungalows (13/00956/OUT), which also involved the demolition of the existing dwelling (West Country House). Both of these decisions were appealed and in the decision dated February 2014 the Inspector dismissed both appeals. In the decision the Inspector found the evidence before him inconclusive regarding the housing supply. However, nonetheless, he considered that even if there is not such a supply, harm from both proposals would significantly and demonstrably outweigh the provision of an additional 7 or 8 dwellings. It was also considered that 'the policy approach to conserve Green Gaps forms an important part of the Council's spatial strategy to restrict development in the main to settlements and sites identified through the Development Plan. This is consistent with the Framework which states in paragraph 7 that part of the environmental role is to protect and enhance the natural, built and historic environment'. Within this appeal the appellant argued that Policy EN2 of the Local Plan allows for minor development within the Local Green Gap if it does not harm its open character and that the proposals would be single storey only, would be well screened by boundary tree and hedge planting and would not be prominent in public views. However, the Inspector considered that 'both sites are clearly visible from several public vantage points. These include travelling north along Cherry Tree Avenue, from West Road to the south in views across open land and across similar open land from Clacton Airfield which is to the south of the site. Additionally a public footpath passes in close proximity to the north, and extending to the west across the airfield. Both sites would be clearly visible in both directions from users of the footpath. Both proposals would involve a significant increase in built development which would be apparent from the public vantage points referred to despite the single storey nature of the proposed dwellings. The cumulative effect of that together with other domestic paraphernalia associated with residential development would create an urbanising effect which would be out of character with the surrounding open landscape and cause harm to the area. Such harm would be the same for both proposals'.
- 6.5 Following the appeal decision a further application was submitted 14/01500/OUT. This sought planning permission for the erection of 5 new dwellings on land surrounding West Country House and the existing bungalows. The application was in outline form with only access being considered as part of the application. The indicative layout showed two dwellings to the front of the existing bungalows and two dwellings to the rear of the existing bungalows and to the front of West Country House and one dwelling to the side of West Country House. This application was refused and dismissed at appeal. This appeal decision dated July 2015 referred to the fact that the Council could not demonstrate a 5 year housing supply. It also stated that because Policy EN2 'aims to keep the Green Gap open and related to development generally it is not specifically a policy for housing supply and is not out of date on the basis of the lack of a five year housing land supply'. In dismissing the appeal the Inspector stated 'the frontage of the site is more open and the existing bungalows are set back from the road. Additional planting could be provided but it is nevertheless likely that parts of the development would be visible across the landscape, including the upper parts of any two storey houses. The development would also be visible from Cherry Tree Avenue including through the access point. The character of the site itself would be altered to a more intensive and urban form of development that currently exists. The character of the proposed development would be at odds with the open quality of the landscape. This has an important role in separating the settlements and thereby maintaining their separate character'.

- 6.6 A more recent determined application is 16/00731/FUL which sought planning permission for the erection of 4 detached bungalows and garages to the south of the three existing bungalows. This application was granted on the basis that the Council could not demonstrate a 5 year housing supply and that the proposal unlike the previous appeal decisions would not undermine the function of the Local Green Gap. A further application, 17/00725/FUL, was granted at Planning Committee to amend the access approved by 16/00731/FUL so that it went to the front of the existing bungalows and not the rear as previously proposed.

Proposal

- 6.7 This application seeks planning permission for a proposed new access onto Cherry Tree Avenue. The proposed new section of road measures 6 metres in width and provides a link between the new access granted permission under application 17/00725/FUL and Cherry Tree Avenue. It is also proposed to extend the section of the access road approved under application 16/00731/FUL further towards West Country House to provide a turning head for fire appliances.
- 6.8 The plans originally submitted as part of this application did not propose a turning head and also showed the existing access onto Cherry Tree Avenue being removed. The plans were amended to include a turning head and retain the existing access onto Cherry Tree Avenue.

Planning Considerations

- 6.9 The main planning considerations are:
- Principle of Development
 - Impact on Green Gap and Character of the Area (including Coastal Protection Belt)
 - Impact on Neighbours
 - Highway Safety

Principle of Development

- 6.10 The proposed access is to provide an alternative access to existing dwelling and those granted planning permission, currently under construction. There is no planning policy which restricts the principle of dwellings having two forms of access and there is no need to provide justification for such proposals. Therefore there can be no principle objection to the provision of an additional access subject to the detailed considerations discussed below.

Impact on Green Gap and Character of the Area (including Coastal Protection Belt)

- 6.11 The proposed development is located within an area designated as a 'Local Green Gap' within the Tendring District Local Plan 2007 and as a 'Strategic Green Gap' in the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.12 Policy EN2 of the Saved Local Plan states that Local Green Gaps will be kept open, and essentially free of development. 'This is to prevent the coalescence of settlements, and to protect their rural settings. Minor development proposals may be permitted if they do no harm, individually or collectively, to the purposes of a Local Green Gap or to its open character'.
- 6.13 Policy PPL6 of the Emerging Plan states that within Strategic Green Gaps 'the Council will not permit any development which would result in the joining of settlements or neighbourhoods, or which would erode their separate identities by virtue of their closer proximity. Planning permission may be granted where:

- a. The applicant can demonstrate that there is a functional need for the development to be in that specific location and that it cannot be delivered on an alternative piece of land outside of the Strategic Green Gap;
 - b. The development would not compromise the opening setting between settlements or neighbourhoods; and
 - c. The development would involve the creation of Green Infrastructure which would support the continuing function of the Strategic Green Gap.
- 6.14 The proposed access will have some impact on the character of the area; however, it is not considered that it will significantly erode the character of the area as the majority of the large area of space in front of the dwellings is retained. The large area of space in front of the dwelling is one of the main characteristics of the site and as this is retained it is considered that the open character of the area is kept and there would be no significant adverse impact on the character and appearance of the Green Gap.
- 6.15 The site also lies within the designated Coastal Protection Belt in the Saved Local Plan, but not in the Emerging Local Plan. Policy EN3 of the Saved Plan states that 'new development which does not have a compelling functional need to be located in the Coastal Protection Belt will not be permitted'. The purpose of this policy is to protect the unique and irreplaceable character of the Essex Coastline from inappropriate forms of development. In this case it is not considered that the proposed access would harm the character of the Essex Coastline and furthermore, weight should be given to the Emerging Plan which removes this site from the Coastal Protection Belt. On this basis it is considered that in regards to the Coastal Protection Belt the proposal is acceptable.

Impact on Neighbours

- 6.16 The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. Policy SPL3 of the Emerging Plan states that amongst other criteria 'the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'.
- 6.17 The proposed access road will not result in an increase in the level of traffic accessing the site; therefore it is considered that the proposal would not result in any adverse impact on the amenities of the neighbouring residents. In fact it would provide an alternative more direct access to the 4 dwellings under construction, rather than the granted access which runs in front of the existing bungalows.

Highway Safety

- 6.18 The proposal would not generate any increase in traffic accessing the site as the number of dwellings it serves is not increasing. The Highway Authority have raised concern that the proposed access exceeds their policy requirements and state that the existing access road is perfectly adequate for the number of units on this site. This may be case however, in planning terms there is no reason for them to provide justification for the proposal. Furthermore, whilst the proposal may be larger than required, it does not make it unsafe and therefore a reason on highway safety reasons cannot be justified.
- 6.19 The Highway Authority is also of the view that the access is premature as it is designed for a larger development than it serves. The granting of an access does not indicate that the site is suitable for further development. Given the planning history of the site; the designation of Green Gap and the fact the Council now has a 5 year housing supply it is Officers view that at present there is are strong reasons to resist development of the site.

- 6.20 Furthermore, Essex County Council Highways have recommended conditions to cover the turning facility and the width of the road and footway, these conditions are not necessary as they are shown as being complied with on the approved plans.

Other Issues

- 6.21 There was an Enforcement Notice issued in 2006 which required an access in a similar location to that proposed to be removed and the notice was complied with. The reason for the notice being served was that at the time it was considered that such an access would cause serious harm to the rural character and introduce an incongruous urban feature that detracts from the countryside appearance and character of the locality set on the edge of the urban area. Since this time the character of the area has changed with permission for 4 further bungalows being given. It is therefore considered that the change to the character of the area which would result for the proposed access would not be significant to maintain this view.

Background Papers

None