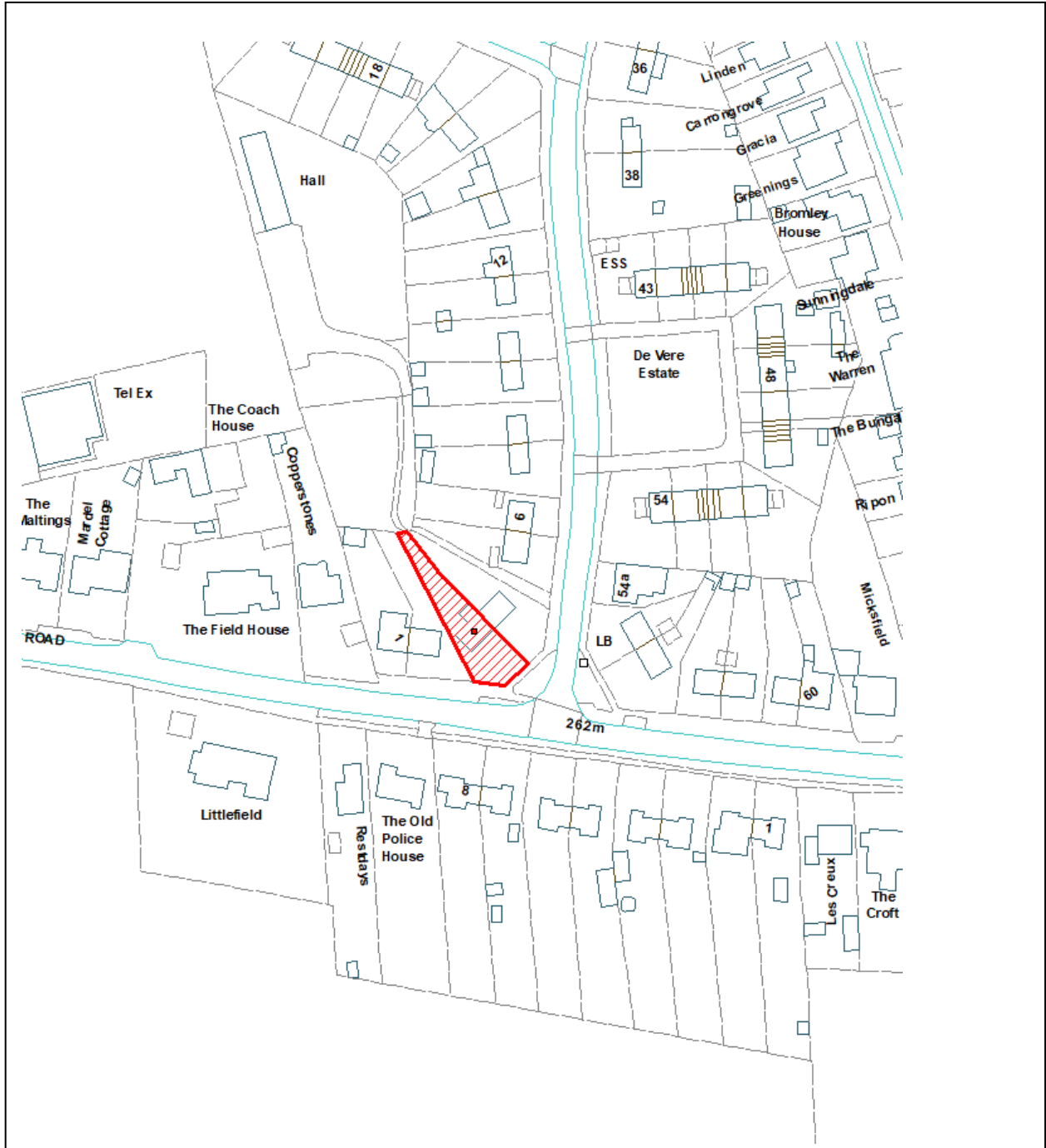


PLANNING COMMITTEE

21st November 2023

REPORT OF THE DIRECTOR OF PLANNING

A.1 PLANNING APPLICATION – 22/02072/FULHH – 3 DE VERE ESTATE GREAT BENTLEY CO7 8QB



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Application:	22/02072/FULHH	Expiry Date:	6th February 2023
Case Officer:	Charlotte Cooper	EOT Date:	18th April 2023
Town/ Parish:	Great Bentley Parish Council		
Applicant:	Mr Daniel Lancaster		
Address:	3 De Vere Estate Great Bentley CO7 8QB		
Development:	Proposed drop kerb with vehicular access along with driveway and parking .		

1. Executive Summary

This application involves the installation of a lowered curb providing vehicular access and a driveway that includes parking space in front of the property. The proposed development, subject to certain conditions, meets acceptable standards in terms of design and aesthetics and is not expected to have any major adverse effects on residential amenities. Essex County Council Highways have been consulted regarding the application and have indicated that it complies with highway safety requirements, subject to the conditions as included in paragraph 8.2 below.

Recommendation: Approval

- 1) That the Head of Planning and Building Control be authorised to grant 22/02072/FULHH planning permission subject to the conditions as stated at paragraph 8.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 2) The informative notes as may be deemed necessary.

2. Planning Policy

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

National:

National Planning Policy Framework July 2023 (NPPF)
National Planning Practice Guidance (NPPG)

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
SP7 Place Shaping Principles

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

SPL3 Sustainable Design
CP2 Improving the Transport Network

Local Planning Guidance

Essex Design Guide
Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.2 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), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

Neighbourhood Plans

- 2.3 There is no neighbourhood – or draft neighbourhood plan in place for this area.

3. Relevant Planning History

22/02072/FULHH	Proposed drop kerb with vehicular access along with driveway and parking to property front.	Current
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4. Consultations

- 4.1 Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.
- 4.2 All consultation responses are available to view, in full (including all recommended conditions and informatives), 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/>.

ECC Highways Dept

18.09.2023

The amended information submitted with the application has been assessed by the Highway Authority and conclusions reached based on a desktop study in conjunction with a site visit. The site is situated within De Vere Estate a local road that links to Strurrick Lane and Thorrington Road and is located with the 30-MPH speed limit for the village. The proposal would introduce a new access onto Thorrington Road, which is classed as a Secondary Distributer within the County's Route Hierarchy. To the west of the proposal is an existing lay-by and the grass verge in front of the property has an existing telegraph pole that may need to be relocated to accommodate the vehicle access. The proposal would provide two off-street parking spaces and turning within the property boundary, considering these factors:

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

1. As indicated on drawing no. 300/P/01 P2 and prior to first use, the road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic.

Reason: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

2. Prior to first use of the access a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the property 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.

3. Prior to the occupation of the dwellings the internal layout, access, and parking shall be provided in principle with drawing number:

o 300/P/01 P2 Amended proposed block plan.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1.

4. 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.

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 in accordance with policy DM1.

6. Prior to first use of the access and as per the Essex Parking Standards (Parking Standards: Design and Good Practice, Sept 2009) 6 metres should be provided behind each parking space within the private drive to allow for manoeuvring.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

7. At no point shall gates be provided at the vehicular access. The access shall remain open and free for use thereafter.

Reason: To give vehicles using the access free and unhindered access to and from the highway in the interest of highway safety and 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.

Officer comment: *The comments from ECC Highways will be considered in the relevant 'Highway Safety' section below. The recommended conditions as set out by ECC Highways above will also be considered against the NPPF tests for planning conditions, in particular in respect of whether any or all of the above-mentioned planning conditions are necessary,*

relevant to planning and to the development, enforceable, precise and reasonable in all other respects.

5. Representations

- 5.1 Great Bentley Parish Council have provided no comments on this application.
- 5.2 No other letters of representation have been received regarding this application.

6. Assessment

Application Site

- 6.1 The application site serves a semi-detached, two-storey dwelling located on the north west corner of Thorrington Road and De Vere Estate within the settlement development boundary of Great Bentley. The semi-detached property in question, as well as the neighbouring property to the northeast, is oriented at a 45-degree angle with respect to the De Vere Estate and Thorrington Road intersection. The front amenity area of the application site extends in a southeastern direction toward the intersection of the aforementioned roads.
- 6.2 The proposed new drop kerb with vehicular access, driveway and parking to property will affect the existing layout and design of the grass verge located to the north of Thorrington Road. This area is under the ownership of Tendring District Council, which is why the application will be reviewed and decided upon by the members of the Planning Committee.

Design and Appearance

- 6.3 The proposed works will be located to the front of the site and will therefore be visible to the public views of the streetscene.
- 6.4 The proposed new access will have dimensions of 3.6 metres in width and 6 metres in length, resulting in the removal of a small section of grass and dividing the remaining grass verge into two separate areas. This will result in a similar appearance to the layout of the grass verge area adjacent to the site, located to the east of De Vere Estate, which exhibits a higher level of hard landscaping. Therefore, this element of the proposal is considered to be in keeping with its locality and cannot be said to have any significant harmful impacts on the visual amenities of the area.
- 6.5 The proposed driveway / parking area will measure 9 metres wide by 8.9 metres deep and will be located to the front of the dwelling. The driveway will be largely shielded by the hedgerows along the front boundary which will be retained, however it will be visible from the proposed vehicular access point. It is therefore considered necessary and reasonable to impose a planning condition ensuring the existing hedge along the front (south-eastern boundary) is retained and should planning permission be granted. Moreover, this proposed driveway / parking area will be block paved and is considered to be of an acceptable size, scale and appearance with no significant harmful impacts on visual amenities.

Impacts on Residential Amenities

- 6.6 The proposal does not include any extra living accommodations or extensions to the main dwelling. The addition of a hardstanding area in front of the application property and the establishment of the new access point are not expected to generate noise or general disturbances significant enough to justify a refusal on these grounds with respect to neighbouring

properties. As such, the proposal as a whole is not considered to have an unacceptable impact on nearby residential occupiers in terms of loss of light, privacy, noise or general disturbance.

Highway Safety

- 6.7 Essex County Council Highways have been consulted on this application. Their full comments have been included above and summarised in this section.
- 6.8 The Highways Department have concluded that the application is acceptable from a highway safety and parking perspective, subject to mitigations and conditions. Officers have considered each of the 7 planning conditions recommended by the Highways Department against the NPPF tests for planning conditions, and except for condition 4, it is considered that all the recommended conditions will meet these tests. Condition 4 fails the NPPF tests of enforceability and preciseness and instead, officers have included a condition seeking full details of surface water drainage from the proposed hardstanding areas to ensure the proposal does not result in hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway during the winter months.
- 6.9 In addition to the above, conversations between the case officer and Essex County Council Highways have confirmed there are no objections or concerns regarding the existing parking layby to the south and southwest of the site. Specifically, officers sought confirmation that parked vehicles using the layby will not have any impact on the visibility of drivers using the access, especially when leaving the site. Essex County Council Highways have confirmed that parked vehicles in this area will not have an impact on visibility splays because suitable views will still be possible looking west along Thorrington Road. Essex County Council Highways have also stated that the existing telegraph pole may need relocating as a result of the works, this has not been raised as a formal objection on highway safety grounds and is therefore a matter for the applicant to consider as part of the next phase of their project. Should planning permission be granted, an informative will be included making the applicant aware of potential requirement to move the telegraph pole.
- 6.10 The proposal is therefore deemed acceptable in terms of highway safety.

Other Considerations

- 6.11 Great Bentley Parish Council have provided no comments on the application.
- 6.12 No other letters of representation have been received.

7. Conclusion

- 7.1 This application would see the installation of a drop kerb with vehicular access and driveway, incorporating parking to the front of the property. Subject to conditions, the proposed development is considered to be of an acceptable design and appearance with no significant harmful impacts on residential amenities. Essex County Council Highways have been consulted on the application and confirmed it to be acceptable in terms of highway safety subject to conditions as included below.

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. COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The works to which this consent relate must be begun not later than the expiration of three years beginning with the date of this consent.

REASON: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the consent becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk of both Enforcement Action and Criminal proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

2. APPROVED PLANS & DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

Drawing No. 300/LP/01 P1

Drawing No. 300/P/01 P2

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

3. COMPLIANCE REQUIRED: VISIBILITY SPLAYS

CONDITION: As indicated on drawing no. 300/P/01 P2 and prior to first use of the access and parking area hereby approved, the road junction / access at its centre line shall be provided with a minimum clear to ground visibility splay dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic.

REASON; To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

4. ACTION REQUIRED: HIGHWAYS PROVISION OF PEDESTRIAN VISIBILITY SPLAYS

CONDITION: Prior to first use of the access and parking area hereby approved, a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the property 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.

5. COMPLIANCE REQUIRED: VEHICLE PARKING PROVISIONS

CONDITION: Prior to first use of the access and parking area hereby approved the internal layout, access, and parking shall be provided in principle with drawing number:
o 300/P/01 P2 Amended proposed block plan.

REASON: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1.

6. COMPLIANCE REQUIRED: MATERIALS

CONDITION: 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.

7. FURTHER APPROVAL - SURFACE WATER DRAINAGE DETAILS

CONDITION: Full details of surface water drainage from the new access and hardstanding/parking area shall have been submitted to and approved, in writing, by the Local Planning Authority prior to commencement of any works associated with the development hereby approved. No part of the development shall be first brought into use until the agreed method of surface water drainage has been fully installed and is functionally

available for use. The surface water drainage scheme shall thereafter be maintained as approved.

REASON: To prevent hazards caused by water flowing onto the highway.

8. ON GOING REQUIREMENT: HIGHWAYS

CONDITION: Notwithstanding the provisions of the Town & 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 gates/fence and/or other means of enclosure within five metres from the edge of the carriageway. Any gates to be erected on site, shall only open into the site and not over any area of the public highway and/or the minimum distance stated.

REASON: In the interests of highway safety.

NOTE/S FOR CONDITION:

Carriageway is the part of a road intended for vehicles rather than pedestrians normally define by kerb if available or edge of a bound surface.

It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense."

9. HEDGE

CONDITION: The existing hedge located along the south-eastern front boundary of the site facing the corner of Thorrington Road and De Vere Estate shall be retained in perpetuity at a minimum height 1.2m for the entire length of the south-eastern boundary of the site up to the eastern edge of the new access hereby approved. Should the existing hedge die, get seriously damaged or seriously diseased it shall be replaced in the next planting season with others of similar size and same species and retained in perpetuity.

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

8.3 Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Highways Informatives

1: It is noted that the new vehicular access appears to be adjacent to an existing telegraph/ electrical pole and overhead cables within the highway boundary. The agent/applicant needs to discuss this with the respective Utility Company to see what would be acceptable

to them in relation to the driveway access and what potential costs would be entailed to possibly re-locate the apparatus which would be at the applicant's expense.

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

3: 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.

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.

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/>.