

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	JJJ	14/05/24
Team Leader authorisation / sign off:	AN	16/05/2024
Assistant Planner final checks and despatch:		

**Application:** 24/00375/FUL **Town / Parish:** Alresford Parish Council

**Applicant:** Mr Daniel / Thomas Lane / Daw - T&D Contractors (Essex) Ltd

**Address:** Sherbro House Boarding Kennels Colchester Main Road Alresford

**Development:** Planning Application – Development of a care home (Use Class C2) in the form 7no bungalows, including a single storey staff office for tenant carers and visitors. All with associated parking and private amenity areas.

### 1. Town / Parish Council

Alresford Parish Council Following Alresford Parish Councils full council meeting of April the 3rd, the above application was debated extensively by the parish council as statutory consultees.

The Parish Council makes the following observations.

Whilst the plans identify a need within the neighbourhood plan and the local plan, council required further clarification on the remit of the assisted housing proposed.

Will there be guarantees that local residents would be prioritised in accessing the proposed provision and thus freeing up housing stock within the village for new residents?

Would the residents be of a single demographic or also include wider age groups and disabilities?

The answers to both of the above, also highlight the most significant concern, namely the issue of access and egress.

The site is situated within a newly developed cul-de-sac, however there are no public footpaths, or traffic management plans or plans to include these submitted to ensure that the residents of the proposal would not be isolated from village life.

The need to cross the busy B1027 at a point close to the speed restriction increasing from 40mph to 50mph in order to access the nearest bus stop, or the centre of the village would be perilous and is of great concern to council.

The Parish Council would respectfully ask the principal planning authority to bring this application before a full planning committee where the Highways aspects can be more carefully scrutinised, and the Essex County Council Highways department might be consulted to address the need for pedestrian infrastructure.

### 2. Consultation Responses

ECC Highways Dept The information submitted with the application has been fully assessed by the Highway Authority and conclusions reached based on a desktop study

in conjunction with a previous site visit. It is noted that the 7no supported living bungalows are to take access from previously approved applications: 19/01858/OUT, 20/01588/FUL and 21/01881/DETAIL. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image.

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following requirements;

1. Prior to the occupation of the development the internal layout shall be provided in principle with Drawing no. 1529-P-03.

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

2. The development shall not be occupied until such time as a car parking and turning area has been provided in accord with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

**Reason:** To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

3. 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.

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

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

**Informative:**

- i. 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)*

- ii. 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.*

- iii. *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.*

Environmental  
Protection

**Contaminated Land:** Given the sites historical land use and that of the surrounding areas historical use we are requesting a Watching Brief be conditioned (on any subsequent approval) and adhered to throughout the demolition and construction phase. We request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

Minimum requirements for dealing with unexpected ground conditions being encountered during construction.

1. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
2. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
3. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
4. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
8. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
10. A photographic record will be made of relevant observations.
11. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials

should either be: o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or o treatment of material on site to meet compliance targets so it can be re-used; or o removal from site to a suitably licensed landfill or permitted treatment facility.

12. A Verification Report will be produced for the work.

**Asbestos:** Should any asbestos containing materials be present on the development site, or used within the original construction of the building in question, it must be safely removed by a qualified contractor, with relevant transfer notes being obtained to confirm safe and responsible removal and disposal.

*REASON: It is the responsibility of the developer to ensure the safe development of the site and to carry out any appropriate land contamination investigation and remediation works. The condition is to ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.*

**Construction Method Statement:** In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Pollution and Environmental Control ask that the following is submitted: Prior to the commencement of any construction or demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Pollution and Environmental Control. This should at minimum include the following where applicable.

#### o Noise Control

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- 2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00(except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.
- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

#### o Emission Control

- 1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- 2) No materials produced as a result of the site development or clearance

shall be burned on site.

3) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

*REASON: to protect the amenity of nearby residential dwellings*

**Lighting:** Any proposed lighting of the development must ensure relevant measures are taken to ensure that any lighting of the development will be located, designed and directed or screened so that it does not cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/cause unnecessary light pollution outside the site boundary. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers.

*REASON: In the interest of protecting residential amenity*

Tree & Landscape  
Officer  
27.03.2024

The Proposed Site Plan 1529-P-03 shows the removal and retention of trees on the site. It shows the retention of the most important trees, namely two Oaks: one on the western boundary and another on the eastern.

The Design and Access Statement submitted in support of the application states in Section 4.7 that 'This submission will include an Arboricultural survey and constraints plan which outlines the relationship of the proposed development with the surrounding trees.'

Whilst the Proposed site plan shows the retention of the most valuable trees on the land the information relating to trees as described in the Design and Access Statement does not appear to have been provided.

Therefore, it would be desirable for an Arboricultural Impact Assessment (AIA) to be provided to show the way that retained trees will be physically protected for the duration of the construction phase of any planning permission that may be granted.

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

Should planning permission be likely to be granted then details of soft landscaping should be secured by a planning condition. Soft landscaping should aim to soften, screen and enhance the appearance of the development. Special attention should be given to planting on the western boundary to create a buffer between the development and the adjacent highway.

### 3. Planning History

19/01858/OUT	Erection of 5 no dwellings (all matters reserved).	Approved	08.04.2020
21/01881/DETAIL	Reserved Matters for Access, Appearance, Landscaping, Layout and	Approved	27.01.2022

Scale for the proposed erection of 5 No. dwellings (following outlined planning permission 19/01858/OUT, dated 08/04/2020).

23/00021/DISCON	Discharge of conditions 6 (Estate Road Details), 13 (Electric Charging Points), 14 (Ecological Enhancement Scheme) and 15 (Lighting Scheme) of application 21/01881/DETAIL.	Approved	22.02.2023
23/01700/DOVU5	Deed of Variation of the terms of the legal agreement dated 20th March 2020 linked to outline planning permission 19/01858/OUT under Town and Country Planning Act 1990 Section 106A, to move the trigger for payment of the Open Space contribution to the occupation of the 4th dwelling.	Current	
24/00375/FUL	Planning Application - The erection of 7no supported living bungalows, designed for adults with complex needs. Single storey staff office for tenant carers and visitors. All with associated parking and private amenity areas.	Current	

#### **4. 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 Local Plan 2013-33 and Beyond (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 made and the Minerals and Waste Local Plans adopted by Essex County Council.

In relation to housing supply:

The Framework requires Councils to significantly boost the supply of homes to meet the District's housing need. However, the revised Framework, published on 19<sup>th</sup> December 2023, sets out in Paragraph 76 that (for applications made on or after the date of publication of this version of the Framework) local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:

- their adopted plan is less than five years old; and
- that adopted plan identified at least a five-year supply of specific, deliverable sites at the time that its examination concluded.

The adopted Local Plan meets these criteria.

Notwithstanding this updated provision, the Council will continue to demonstrate an updated supply of specific deliverable sites within its Strategic Housing Land Availability Assessment (SHLAA), which is published annually. The most recent SHLAA was published by the Council in November 2023, and demonstrates a 6.44-year supply of deliverable housing sites against the annual requirement of 550 dwellings per annum set out within the adopted Local Plan, plus a 5%

buffer to ensure choice and competition in the market. (The SHLAA can be viewed on the Council's website: <https://www.tendringdc.gov.uk/content/monitoring-and-shlaa>)

On 19th December 2023 the Government published the Housing Delivery Test (HDT) 2022 measurement. Against a requirement for 1,420 homes for 2019-2022, the total number of homes delivered was 2,207. The Council's HDT 2022 measurement was therefore 155%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to decisions relating to new housing development.

## 5. **Neighbourhood Plans**

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

[The Alresford Neighbourhood Plan](#) (ANP) was formally made (adopted) on 8th October 2021 and is part of the 'Development Plan', the following ANP policies are relevant to this application:

POLICY ALRES1: ALRESFORD SPATIAL STRATEGY  
POLICY ALRES2: PROVISION FOR THE AGEING POPULATION  
POLICY ALRES7: PROVISION FOR WILDLIFE IN NEW DEVELOPMENT  
POLICY ALRES10: SURFACE WATER MANAGEMENT

## 6. **Relevant Policies / Government Guidance**

### **National:**

National Planning Policy Framework December 2023 ([NPPF](#))

National Planning Practice Guidance ([NPPG](#))

### **Local:**

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

HP1 Improving Health and Wellbeing

LP1 Housing Supply  
LP2 Housing Choice  
LP3 Housing Density and Standards  
LP4 Housing Layout  
LP5 Affordable Housing  
LP10 Care, Independent Assisted Living

PP13 The Rural Economy

PPL1 Development and Flood Risk

PPL3 The Rural Landscape  
PPL4 Biodiversity and Geodiversity  
PPL5 Water Conservation, Drainage and Sewerage  
PPL10 Renewable Energy Generation and Energy efficiency Measures

CP1 Sustainable Transport and Accessibility  
CP2 Improving the Transport Network  
DI1 Infrastructure Delivery and Impact Mitigation

#### Supplementary Planning Documents

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

#### Essex Design Guide

Technical housing standards: nationally described space standard Published 27 March 2015

Biodiversity Net Gain Supplementary Planning Document June 2023 (DRAFT)

#### Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

## **7. Officer Appraisal (including Site Description and Proposal)**

### Application site and surrounding area

The application site is located to the south of the former Sherbro House Boarding Kennels, now developed and consisting of 5 detached dwellings. The site is located immediately to the south of the southernmost dwelling and measures approximately 0.37 hectares in size. The site utilises the same vehicular access as the aforementioned and is situated on the eastern side of Tenpenny Hill, Alresford.

The land is reasonably well screened by a number of mature trees and hedgerow which feature on the east and west boundaries -the existing, recently completed 5 detached (two storey) dwellings are however clearly visible from the Main Road. To the rear is open farm land.

### Description of Development

When the application was first submitted it proposed the erection of 7no supported living bungalows, stated to be 'designed for adults with complex needs', as well as a single storey staff office for tenant carers and visitors. The proposal also included associated parking and private amenity areas.

Towards the end of the determination period the applicant, via his agent made contact and explained that they made a mistake with the submission and the proposal is instead for a care home (use Class C2), but still in the form of the 7 bungalows. They have requested a change in the description and the LPA reluctantly agreed. At that point the LPA had already expressed significant concerns about the design of the scheme (evidence of this is on the planning file) and the applicant was made aware that the scheme, which is proposed to remain exactly the same except for the above-mentioned change, would be refused on design grounds. The applicant accepted this position in writing and also formally requested that the description of the development is amended to reflect the above, which the LPA agreed to.

The development is therefore being assessed on the basis of a proposal for a care home (Use Class C2) in the form of 7no bungalows, including a single storey staff office for tenant carers and visitors. The scheme continues to include associated parking and private amenity areas.

### Representations

The application has been advertised by way of two site notices and individual letters to nearby properties, a total of 3 objections were received, one letter in support of the scheme was also received. The objectors raised the following concerns:

- Outside settlement development boundary



- Highways/parking implications
- Poor design
- Services such as doctors will be unable to cope

These matters will be addressed in the 'assessment' section of the report

In terms of the Comments made by the Parish Council:

A care home is proposed and there is no mechanism to ensure that local people are prioritised over people living further away, moreover such a requirement will be unreasonable and should the application be approved with such a stipulation the LPA could be liable for costs should the applicant appeal the restriction (because there is no policy requirement to make care home provision available for local people in the first instance)

In terms of demographics again it would be unreasonable to restrict occupancy to a single demographic, in the event that planning permission is granted the development should only be used as a care home under use class C2 – this could be a planning condition.

Issues of access and egress, connectivity (to Alresford) are covered in the relevant highways section below.

There is no mechanism to refer this application to a planning committee, the proposal has not been called in.

### Principle of Residential Development

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. Policy SPL2 states to encourage sustainable patterns of growth and carefully control urban sprawl, each settlement listed in Policy SPL1 (with the exception of the Tendring Colchester Borders Garden Community) is defined within a 'Settlement Development Boundary' as shown on the relevant Policies Map and Local Map. The policy then states 'Within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans. Outside of Settlement Development Boundaries, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in this plan.

The application site lies some distance outside of, the defined Settlement Development Boundary for Alresford in the 2013-2033 Local Plan. The proposed development would therefore extend beyond the area planned to provide growth for this settlement and is therefore not positively supported by the above mentioned policies.

However as set out in the 'Description of Development' section above, the scheme proposes a care home under use Class C2. There is a specific policy LP10 (Care, Independent Assisted Living) governing proposals for new care homes and the relevant part of this policy states:

*The Council will support the provision of care homes and extra care housing within settlement development boundaries and, in particular, within the mix of accommodation for the residential and mixed-use developments across the District. The Council will also consider, on their merits, proposals for the development of new (including change of use to) care homes (Use Class C2) on land outside of settlement development boundaries where they will still support a sustainable pattern of growth in the District. Such developments must either:*

- a. be located on a site safely accessible on foot within 800 metres of the edge of the settlement development boundary of one of the District's 'strategic urban settlements', 'smaller urban settlements' or 'strategic rural service centres'; or*
- b. be located on a site safely accessible on foot within 400 metres of the edge of the settlement development boundary of one of the District's 'rural service centres'.*

Alresford is classified as a rural service centre in the Local Plan and the site is located some 290m from the south easternmost settlement development boundary of Alresford. There is a continuous footpath along Main Road all the way up to the Wivenhoe Road junction (which is within the

Alresford SDB). The footpath continues along Wivenhoe Road providing decent access towards the more central areas of Alresford. The proposal therefore complies with criteria b) of policy LP10, and from a locational and 'in principle' perspective, the site is considered suitable for a new care home. However, policy LP10 also refers to the need for (new care home) proposals to pay particular attention to landscape character if located outside of settlement development boundaries and offer a high quality, safe, secure and attractive environment for their residents and provide sufficient external space to accommodate the normal recreation and other needs of residents, visitors or employees. It goes on to state 'proposals shall have no significant material adverse impact on the landscape, residential amenity, highway safety, or the form and character of nearby settlements and shall be otherwise appropriate in scale and design for their location, having regard to other policies in this Local Plan.' The above and indeed other relevant material considerations are covered in more detail below.

### Affordable Housing

Paragraph 65 of the NPPF states that the provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). The same paragraph also states to support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Policy LP5 of the Local Plan seeks the provision of affordable housing on development proposals outside of the Tendring Colchester Borders Garden Community, involving the creation of 11 or more (net) homes. There is no reference to a site area that would trigger a requirement for the provision of affordable housing set out under Policy LP5.

The application proposal is for 7 dwellings and therefore taken on its own would not be expected to provide affordable housing under the requirements of Policy LP5.

However, the site is immediately adjacent to a residential development of 5 relatively recently constructed two storey dwellings. If the application site under consideration is viewed as forming part of that larger development for planning purposes, then the cumulative number of dwellings provided would be of a scale that would trigger the need for affordable housing provision under Policy LP5 of LPS2.

Acknowledging the proposal's intent to establish 7 bungalows falling under Use Class C2 (care home), it could be contended that the project caters to a dwelling type/occupier group not adequately addressed by the current market offerings. Consequently, if planning permission is granted, it's imperative to include a condition ensuring the continuous operation of the development as a care home indefinitely. Failure to impose such a condition may lead to the application being perceived as the subdivision of a single site for planning purposes.

In simpler terms, the absence of such a condition would result in exceeding a total of 11 units, thereby necessitating compliance with the requirement for 30% affordable housing provision, subject to viability testing.

### Design/Layout

Paragraph 135 of the NPPF (2023) 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.

Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context, and to protect the district's landscape and the quality of existing places and their environs. Policy SPL3 and LP4 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 which create a unique sense of place.

The plan outlines the construction of seven bungalows positioned closely together, accessible via Francesca Gardens to the north. Just south of the existing southernmost dwelling, the proposed extended access will taper out, incorporating substantial hardstanding areas to facilitate the quantum of development in terms of turning areas, parking, and other essential amenities for both residents and visitors. Additionally, a single-storey staff office for tenant carers and visitors is planned, which will further increase hard surfaced areas and built form. In between the staff carers block and plot 1 and 2, further access/parking/hard surfaced areas are proposed.

The layout of the proposed development, with its tightly clustered bungalows and extensive hardstanding areas, presents significant and overriding character, design and layout harm in this area. The overall design approach will create a development dominated by tightly clustered together bungalows akin to a more densely built up urban area, as well as extensive parking and vehicular circulation spaces, resulting in a cramped and urbanised arrangement that will starkly contrast with the spacious, predominantly semi-rural nature of the surrounding area.

This approach is considered to be completely at odds with the prevalent rural and loosely-knit built environment in the vicinity. The proposal, for the above reasons will detract from the area's character and aesthetic appeal, contrary to Policies SP7, SPL3, LP4, and PPL3 of the Local Plan.

### Residential Amenity

Paragraph 135 of the National Planning Policy Framework (2023) 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.

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.

The nearest residential properties are located to the north of the site (the recently constructed two storey detached dwellings). However, there is considered to be a sufficient separation distance between the nearest dwelling and the proposed single storey structures close to the northern boundary of the site. The orientation (of the existing dwelling to the north) and indeed the single storey nature (and orientation) of the proposed bungalows will ensure there will not be significant harm in respect of loss of daylight/sunlight, overlooking or the development appearing oppressive from the viewpoint of nearby residential occupiers. In addition, the development allows for an internal layout that would not detract from the amenities of the future occupiers of the proposed dwellings.

Although tightly packed together, the dwellings would be served by private amenity areas of a size and configuration that will meet the needs and expectations of the future occupants and which is commensurate to the size of bungalows, however as explained in the section above, this layout would result in overriding harm to the prevailing character of the area.

### Highway Considerations

Paragraph 114 of the National Planning Policy Framework 2023 seeks to ensure that safe and suitable access to a development site can be achieved for all users, whilst Paragraph 108 requires that streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

Adopted Policy CP1 (Sustainable Transport and Accessibility) of the Tendring District Local Plan 2013-2033 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional

traffic the proposal will generate, and the design and layout of the development provides safe and convenient access for people.

The proposed development would utilise an existing access essentially just extending it in a south eastern direction. The LPA consulted the Highways authority who raised no objection subject to conditions. In the event of a recommendation for approval the LPA will apply the NPPF tests as part of considerations as to whether the suggested conditions could be imposed should planning permission be granted.

Ultimately, no highway safety or highways capacity issues can be identified that either could not be mitigated or that would warrant a refusal of the application on highway safety or highway capacity grounds.

#### Drainage and Foul Sewage Disposal

Paragraph 180(e) of the NPPF 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 191 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location considering the likely effects of pollution on the natural environment.

The size of the site and extent of proposed hardstanding falls below the thresholds for a surface water drainage strategy. If a development were to be approved, all hardstanding areas would be required to be permeable or drain to a permeable area within the site. No surface water discharge onto the highway is permitted.

Adopted Policy PPL5 of Section 2 of the Adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Connection to the mains is the preferred option having regard to the drainage hierarchy and building regulations requirements.

The onus is on the applicant to ensure a mains connection is possible. The accompanying application form confirms that the development will be served by a connection to the existing mains system. In the event of an approval on site, the development would be policy compliant in so far as foul sewerage disposal is concerned.

#### Sustainable Construction & Energy Efficiency

Paragraph 116 (e) of the NPPF states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. Policies PPL10 and SPL3 require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.

In the event of an approval on site, conditions securing the delivery of energy efficiency measures for the development would be relevant and could be imposed.

#### Financial Contribution - Open Space and Play Space

Policy DI1 of the 2013-2033 Local Plan aims to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types. For smaller scale developments better served by an existing nearby area of open or play space, a financial contribution may be sought through a S106 legal agreement. The contribution would be used towards the delivery of improvements, expansion or new open spaces and/or sports facilities.

A care home is proposed in the form of 7 bungalows, each one with an exclusive amenity area in the form of a rear garden, as such it is not a policy requirement to contribute towards open space or play space provision in the area.

## Ecology and Biodiversity

Paragraph 180 of the NPPF, amongst other things, states Planning policies and decisions should contribute to and enhance the natural and local environment by (b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland; and (d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

Paragraph 186 of the NPPF states when determining planning applications, local planning authorities should apply the following principles:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

Policy SPL3, Part A criterion d), requires that the design and layout of development maintains or enhances site features, including ecological value.

TDLP Policy PPL4 states that proposals for new development should be supported by appropriate ecological assessments and, where relevant, provide appropriate mitigation and biodiversity enhancements to ensure a net gain.

This report addresses the distinct legal requirements, ensuring a comprehensive analysis of the ecology and biodiversity impacts of the proposal in line with regulatory standards.

## General duty on all authorities

The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.

This development is subject to the general duty outlined above. The proposal is for 7 C2 use bungalows on what appeared to be, formerly a fairly open grassland site with a number of trees along the eastern, southern and western boundaries. Some of these trees have been removed and the site is currently essentially used to store building materials and associated building equipment (it is assumed that this relates to the recently completed development to the north of the site). The previous, baseline situation on site therefore appears to be that of grassland with established trees and hedgerows on, or directly adjacent to the site boundaries.

Turning to biodiversity net gain (BNG), it is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. Following recent changes in legislation the minimum requirement is for a 10% net gain in biodiversity value achieved on a range of development proposals. The application was submitted prior to the introduction of this requirement and is not therefore applicable for Biodiversity Net Gain, however the application is still expected to demonstrate, through an appropriate ecological assessment, that the development will not harm biodiversity or geodiversity based on the baseline former situation on site (before it was turned into an impromptu storage area for the building materials associated with the neighbouring development). No such information has been submitted therefore the application has failed to demonstrate that the proposal will not have an unacceptable impact on biodiversity and geodiversity. The proposal is therefore in conflict with Local Plan policies SPL3 and PPL4 and paragraph 180 (b) and (d) of the NPPF 2023.

### Protected Species

In accordance with Natural England's standing advice the application site and surrounding habitat should be assessed for potential impacts on protected species. As set out above the site has been turned into a storage area for building materials associated with the above mentioned and recently completed development for 5 dwellings. In the process, a considerable part of the site which previously had natural features on it, such as the grassland and some trees, have been removed. Through these actions the potential for the site to provide habitat for protected species has reduced, however the site is adjacent to open countryside and a small woodland so has the potential to be used by protected species. The above notwithstanding, the application still fails to demonstrate that the development will not have an unacceptable impact on protected species / their habitats, contrary to the above-mentioned Local Plan policies SPL3 and PPL4.

### Financial Contribution - Recreational Disturbance

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

This C2 care home development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites but is approximately 3 km from the Colne Estuary (Mid-Essex Coast Phase 2) SPA and Ramsar site and the Essex Estuaries SAC. The Habitat Regulations screening assessment confirms that residential care homes and residential institutions (excludes nursing homes) would have a 'likely significant effect' on a European site in terms of increased recreational disturbance. The required mitigation can be secured via an appropriately worded planning condition (requiring submission of a unilateral undertaking) in the event of a planning approval.

### Environmental Protection

Consultation with the Council's Environmental Protection Team (EPT) has been conducted, and they have raised no objections. However, they have stipulated that certain details, including lighting, construction methodology, and contamination measures, can be provided as part of conditions in the event that planning permission is granted.

## **8. Recommendation**

Due to the concerns highlighted above, the proposed development would be significantly harmful to the prevailing character of the area. Due weight is given to the provision of a care home in this location and the LPA acknowledges that genuine care home accommodation is a housing type that is not met through the open market. Moreover, the spacious internal layouts of the proposed

bungalows is also noted however this element is neutral in the planning balance because it is considered to be a requirement for compliance in any event on a scheme of this nature.

Weighing against the proposal is the character harm that will ensue – this harm will be significant and permanent. The application has also failed to demonstrate that the proposal will not have an unacceptable impact on biodiversity and geodiversity, or protected species and or their habitat.

The benefits that a care home in this location would bring, including the employment opportunities, will be insufficient, by a considerable margin, to outweigh the identified harm.

Due regard is also given to the other considerations that are either policy compliant, or capable of being policy compliant subject to conditions, however these elements are merely policy compliant, or capable of being policy compliant and are expected of a scheme of this nature. Collectively they do not add any weight in favour of approval. Accordingly, the proposal is recommended for refusal for the following reasons:

## **9. Reasons for Refusal**

1. Paragraph 135 of the National Planning Policy Framework 2023 (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. Section 1 Policy SP7 of the adopted 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Section 2 Policies SPL3 and LP4 of the adopted 2013-33 Local Plan also require that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout, create a unique sense of place.

The proposed development by reason of its layout and design, characterised by tightly clustered bungalows of similar appearance, coupled with the extensive hardstanding areas, would result in significant and overriding harm regarding its impact on the prevailing character and pattern of development of the area. The design approach envisaged would lead to a development dominated by closely packed bungalows, resembling a densely built urban area. Moreover, the inclusion of extensive parking and vehicular circulation spaces would contribute to a cramped and urbanised arrangement, starkly contrasting with the spacious, predominantly semi-rural ambiance of the surrounding locality.

For these reasons the proposal will conflict with the above-mentioned Local Plan policies and paragraph 135 of the NPPF 2023.

2. The application has failed to demonstrate that the development will not have an unacceptable impact on biodiversity, geodiversity or protected species / their habitats. There is therefore uncertainty of impacts on legally protected species and the Local Planning Authority is unable to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 and prevent wildlife crime under s17 Crime and Disorder Act 1998. The proposal is therefore in conflict with Section 2 Policies SPL3 and PPL4 of the adopted 2013-33 Local Plan and paragraph 180 (b) and (d) and 186 of the NPPF 2023.

## **10. Informatives**

### Plans and Supporting Documents

The Local Planning Authority has resolved to refuse the application for the reason(s) set out above. For clarity, the refusal is based upon the consideration of the plans and supporting documents accompanying the application as follows, (accounting for any updated or amended documents):

- 1529-P-01 B: Site and Block Plan
- 1529-P-02 A: Existing Site Plan - Topo Survey
- 1529-P-03 C: Proposed Site Plan - Ground Floor
- 1529-P-04 B: Proposed Site Plan - Roof
- 1529-P-05 B: Proposed Ground and Roof Plan - Units 1-2
- 1529-P-06 B: Proposed Ground and Roof Plan
- 1529-P-07 B: Proposed Elevations - Units 1-2
- 1529-P-08 B: Proposed Elevations - Units 3-6
- 1529-P-09 B: Proposed Elevations - Unit 7
- 1529-P-10 A: Proposed Staff Office - Plans and Elevations
- 1529-P-11 B: Street Scene - Site Sections

**Positive and Proactive Statement**

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application, and the changes required are more than minor and would necessitate a complete rethink in terms of design and layout. The Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

**Equality Impact Assessment**

In making this recommendation/decision regard must be had to the public sector equality duty (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 that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic\* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic\* and those who do not, including tackling prejudice and promoting understanding.

It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic\* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral – no details put forward as to the age range of the residents of the proposed care home – in any event – it would be unreasonable of the council to insist upon a certain age range to occupy the care home



		without any good reason
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Unchanged - Approval would have represented a potential benefit to this group.
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

**11. Notification of Decision**

<b>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</b>	YES	<b>NO</b>
<b>Are there any third parties to be informed of the decision? If so, please specify:</b>	YES	<b>NO</b>