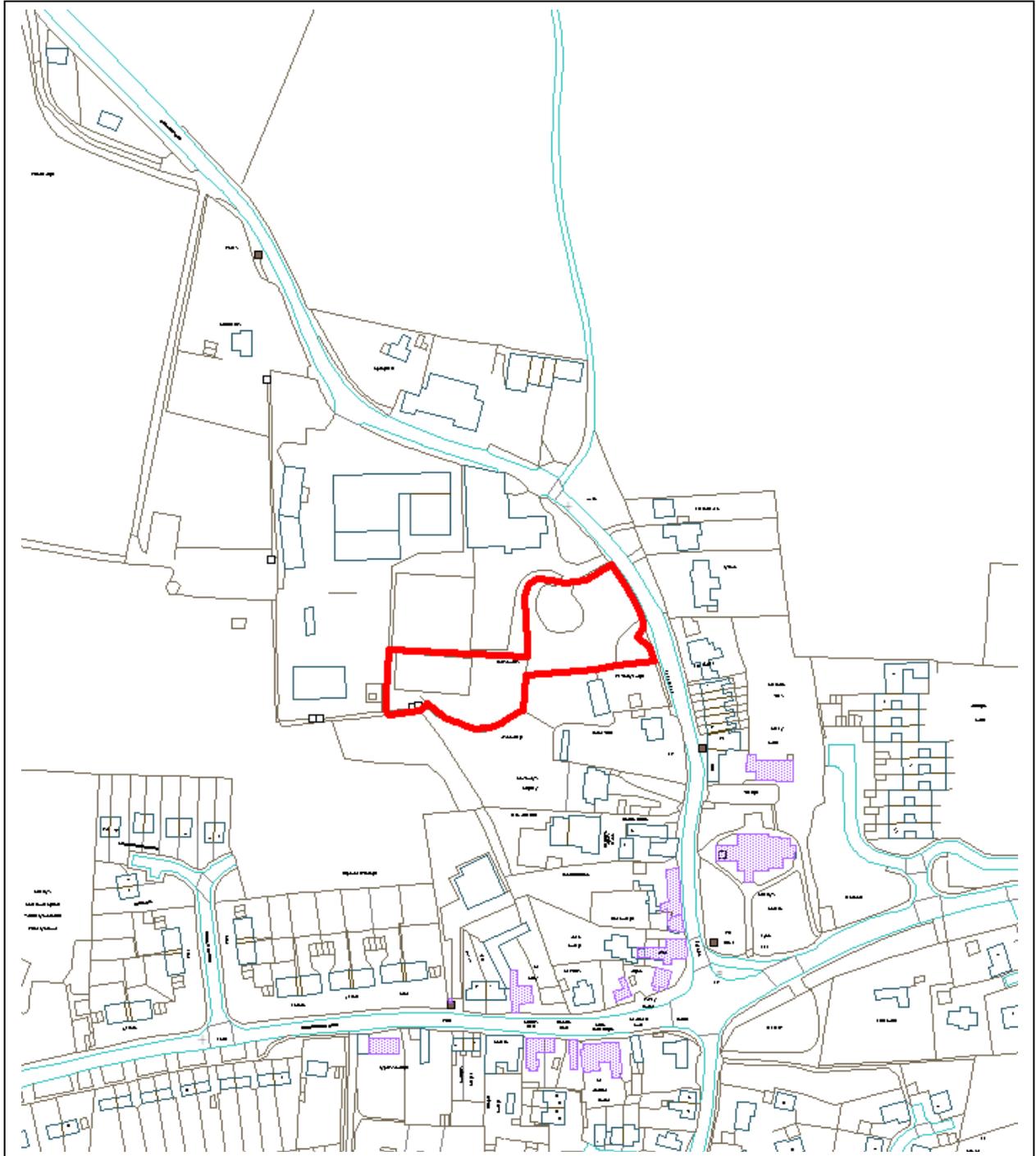


**PLANNING COMMITTEE**

**30 OCTOBER 2012**

**REPORT OF THE ACTING HEAD OF PLANNING**

**A.3 PLANNING APPLICATION - 12/00949/FUL - LAND ADJ ARDLEIGH HALL SQUASH CLUB, DEDHAM ROAD, ARDLEIGH, CO7 7LD**



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<b>Application:</b>	12/00949/FUL	<b>Town / Parish:</b> Ardleigh Parish Council
<b>Applicant:</b>	Vaughan & Blyth (Construction) Ltd - Mr Ross Bain	
<b>Address:</b>	Land Adj Ardleigh Hall Squash Club, Dedham Road, Ardleigh, CO7 7LD	
<b>Development:</b>	Proposed construction of 3 no. 4 bedroom and 1 no. 3 bedroom detached houses and associated garages.	

## 1. Executive Summary

- 1.1 The application site has been designated within the Proposals Map of the Local Plan as protected existing recreational open space, linked to the Ardleigh Hall Leisure Club, and therefore protected by policies COM7 and COM7a of the Local Plan. As a result, this application is presented to the Committee as a departure from the Local Plan.
- 1.2 The application site amounts to approx 0.42 hectares and lies to the west of The Street, and just south of Ardleigh Hall Leisure and Squash Club. The site comprises two linked parcels of land, one having a frontage onto The Street and the other set back and accessed from a private drive. The site contains a number of trees, including some which have recently been protected.
- 1.3 The rear part of the site presently includes a disused tennis court associated with the adjacent Leisure Club. The remaining part of the application site provides occasional overflow car parking for the Leisure Club.
- 1.4 The application site lies within the Ardleigh Conservation Area and is set within the defined settlement boundary of the village.
- 1.5 The application proposes 4 no. dwellings and garages. Three of the four properties are provided with 4 bedrooms and one has 3 bedrooms; all the properties are of two storeys and detached. All but one of the garages is detached; two are double garages and the other two are single. The density of the development equates to 9.5 dwellings per hectare.
- 1.6 National planning policy is provided within the National Planning Policy Framework (NPPF). The NPPF promotes the principles of sustainable development and seeks to significantly boost housing supply, particularly in sustainable locations. Such proposals should ensure high standards of design and respond to local character, whilst being visually attractive as a result of good architecture and appropriate landscape design. As a result, the proposed development sits comfortably with the overarching sentiments of the NPPF.
- 1.7 The application site falls within the development boundary for the village of Ardleigh. Development in Tendring is focussed towards the larger urban settlements of Clacton and Harwich and the smaller towns and villages including Ardleigh. As the site falls within the settlement boundary, its development would be acceptable in principle, subject to other policies in the Local Plan.
- 1.8 Policies COM7 and COM7a seek to protect land from development which leads to their loss, either fully or in part, particularly where the land concerned fulfils an ongoing recreational or open space function. The proposals involve land that was last used as a tennis court and an area of land occasionally used for overflow car parking. The tennis court is in a poor condition and has not been used by club members for more than three

years. The club has two further courts, which are in better condition and members tend to use these courts from time to time. These are to remain and do not form part of the application site.

- 1.9 It is considered the tennis court is surplus to requirements and provides no recreational value to the community. Whilst the tennis court is not used, there will be no actual loss to the community as a result of the development. However, in light of the policy, it is appropriate to mitigate the loss of the tennis court, to the point where it is commensurate with the impact on the community. It is understood that the applicant has offered a financial contribution to be provided via a unilateral undertaking, which can be used to assist in the provision of play and or recreation within the Ardleigh parish. As a result the loss of the tennis court is considered by Officers to be acceptable.
- 1.10 Furthermore, Officers considered that the development, if granted, would not have an adverse impact on the character and appearance of the conservation area, would not be detrimental to protected trees, and is acceptable in terms of highway safety and residential amenity.
- 1.11 It is therefore recommended that planning permission is granted subject to conditions and completion of the unilateral undertaking.

**Recommendation: Approve**

That the Acting Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development subject to:-

- (a) Within 3 months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 dealing with the following matters
- Public Open Space Provision; and
  - Outdoor Sports Facility Projects.
- (b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Acting Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate) and with the reason for approval set out in (ii) below.

**(i) Conditions:**

1. Time Limit for commencement – 3 years
2. Development in accordance with the plans
3. Permeable surfacing
4. Materials
5. Hard and Soft Landscaping
6. Tree protection measures
7. Boundary treatments
8. Refuse storage area to be provided prior to occupation
9. Site Levels
10. Restricted hours of construction and demolition
11. Land contamination
12. Surface water drainage
13. As per Highway Authority recommendations
14. As per key recommendations in phase 1 habitat survey

**(ii) Reason for approval:**

This application proposes the erection of 4 no. residential dwellings and associated garages. The application site lies within the defined settlement boundary of Ardleigh and within the Ardleigh Conservation Area. In this case the Council considers that having taking into account those policies contained within the Development Plan and other material planning considerations, the proposed development is satisfactory in terms of density and scale to the context of the site, impact upon residential amenity, impact upon the character and appearance of the conservation area and highway safety. Furthermore, it is considered the tennis court is surplus to requirements and provides no recreational value to the community, and a financial contribution is provided to be used to assist in the provision of play and or recreation within the Ardleigh parish to compensate for this loss. Accordingly, the proposal is considered to be in accordance with the provisions of the Tendring District Local Plan 2007 and the National Planning Policy Framework.

- (c) The Acting Head of Planning (or the equivalent authorised officer) be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of three months, as the requirements necessary to make the development acceptable in planning terms had not been secured through S106 planning obligation, contrary to Local Plan policy COM6 and the aims and aspirations of policies COM7/7a.

**2. Planning Policy**

National Policy:

National Planning Policy Framework (2012)

Local Plan Policy:

*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

QL12 Planning Obligations

HG3 Residential Development within Defined Settlements

HG9 Private Amenity Space

HG13 Backland Residential Development

EN6 Biodiversity

EN17 Conservation Areas

COM6 Provision of Recreational Open Space for New Residential Development

COM7 Protection of Existing Recreational Open Space including Children's Play Areas and Pitch and Non-Pitch Sports Facilities

COM7a Protection of Existing Playing Fields, including School Playing Fields

TR1a Development Affecting Highways

TR7 Vehicle Parking at New Development

RA4 Housing Development within Defined Villages

Other guidance:

Essex County Council Car Parking Standards – Design and Good Practice (2009)

Ardleigh Village Design Statement (2011)

**3. Relevant Planning History**

83/01196/FUL	Retention of 2 hard surface tennis courts and related fencing. Approved 15 November 1983
83/01199/FUL	Retention of surfaced car park and related access road. Approved 15 November 1983
83/01446/FUL	Six dwellings and garages on part of site. Refused 7 March 1984
91/01110/OUT	Erection of two detached houses. Refused 26 November 1991
01/00664/FUL	Tennis court with 2.75m green chain-link fencing. Approved 20 June 2001
12/00003/TPO	T1 - Horse Chestnut T2 - Lime T3 - Lime T4 - Ash T5 – Oak. Order confirmed 26 September 2012

**4. Consultations**

**Ardleigh Parish Council:**

- 4.1 The Council neither supports nor objects to this application, but raises the following points for consideration:
- The development is neither in the Local Plan nor the Emerging Local Plan;
  - It is noted that policy PEO19 of the Draft Local Plan indicates that the land, highlighted in this planning application, is an area of Green Infrastructure and as such not available for development;
  - Part of the proposed development, the overflow car park, covers an area that was originally a pond. Although the pond has been filled in, this area still floods. The nearby ditch fills up, backs up and adds to the flooding of the area;
  - Deep bore pile driving was required when an adjacent property required an extension, causing cracking to other properties;
  - Building on the tennis court will result in a loss sporting/social amenity for the community; and
  - Serious concern over increased traffic problems with parking in The Street. There are already problems with inconsiderate parking in this narrow village street, particularly outside the Post Office and the Doctor's Surgery. Users of Ardleigh Hall Squash Club currently park in the overflow car park. By developing the area it will reduce the amount of parking available at the Squash Club and users will have to park elsewhere, presumably on The Street.

### **Essex County Council (Highway Authority):**

4.2 Raises no objection subject to standard conditions requiring:

- Private drive width constructed to 5.5m;
- Pedestrian visibility splays;
- Vehicular visibility splays;
- No unbound materials within 6m of highway boundary;
- Vehicular turning facility;
- All off-road parking facilities to be provided in accordance with current standards;
- Details for on-site parking facility for construction workers and turning facility; and
- Details of wheel and underbody cleaning facility.

### **Natural England:**

4.3 A protected species survey has identified that bats, a European protected species, may be affected by this application. The site is not a protected site. The proposal falls to be considered in accordance with standing advice.

### **Environment Agency:**

4.4 This proposal falls outside the scope of matters, under The Town and Country Planning (Development Management Procedure) (England) Order 2010, on which the Environment Agency is a statutory consultee. Therefore we have no comments.

### **Sport England:**

4.5 If the tennis court is genuinely redundant and that there is no demand for replacing the facility, the principle of developing the tennis court would be considered acceptable. However, Sport England would only be supportive if some form of mitigation is attained, and a financial contribution is ring fenced towards outdoor sports facility projects. If this is not attained, Sport England objects to the application.

### **Essex Wildlife Trust:**

4.6 No comments received.

### **Public Experience (Environmental Services):**

4.7 Request standard land contamination condition.

## **5. Representations**

5.1 A total of 6 objections have been received. The comments received are summarised below:

- Area designated for recreational use;
- Loss of parking spaces;
- Land contaminated;
- Site subject to surface water flooding;
- Ditch adj. site overflows;
- Biodiversity concerns;
- Loss of recreational facility not to be encouraged;
- Concern over pile-driving if planning permission granted;
- Previous applications on this land refused planning permission;
- Further development will increase traffic and parking problems;

- New draft Local Plan includes land as protected green space;
- If planning permission given would be followed by further applications for housing;
- Lack of use of tennis court is a reflection on current management, doesn't mean it is no longer a valuable asset to the village;
- Two of the proposed houses overlook existing rear garden;
- Extending the village envelope fly's in the face of previous refusals for residential development on the site;
- Application appears as a piecemeal development with no respect of the character of the Conservation Area; and
- Loss of trees on site would harm the conservation area.

## **6. Assessment**

6.1 The main planning considerations are:

- Context and Background;
- Proposal;
- Policy Context;
- Loss of Recreational Facility;
- Design and Layout of Proposal, including Impact on Conservation Area;
- Impact on Biodiversity;
- Impact upon Amenity;
- Impact on Highways/Parking Provision; and,
- Other Issues.

### **Context and Background**

6.2 The application site amounts to approx 0.42 hectares and lies to the west of The Street, and just south of Ardleigh Hall Leisure and Squash Club. The site comprises two linked parcels of land, one having a frontage onto The Street and the other set back and accessed from a private drive. The site contains a number of trees, including some which have recently been protected by a Tree Preservation Order (TPO).

6.3 The rear part of the site presently includes a disused tennis court associated with the adjacent Leisure Club. The remaining part of the application site provides occasional overflow car parking for the Leisure Club.

6.4 The application site lies within the Ardleigh Conservation Area and is set within the defined settlement boundary of the village.

### **Proposal**

6.5 The application proposes 4 no. dwellings and garages. Three of the four properties are provided with 4 bedrooms and one has 3 bedrooms; all the properties are of two storeys and detached. All but one of the garages is detached; two are double garages and the other two are single. The density of the development equates to 9.5 dwellings per hectare.

6.6 The dwellings are provided with private gardens which meet the size standards required under policy HG9 of the Local Plan.

6.7 The design of each dwelling is bespoke and no two are identical in appearance. The design is tradition, as is the choice of external materials, which are to be taken from the local palette, including smooth render, clay tiles, facing brickwork and featheredged weather boarding.

- 6.8 A landscaping scheme has also been submitted with the application with the majority of trees to be retained including those that have a TPO. The scheme proposes the removal of three small trees and some low level scrub, but it is proposed they these will be replaced by fourteen new trees within the site.

### **Policy Context**

- 6.9 National planning policy is provided within the National Planning Policy Framework (NPPF). The NPPF promotes the principles of sustainable development and seeks to significantly boost housing supply, particularly in sustainable locations. Such proposals should ensure high standards of design and respond to local character, whilst being visually attractive as a result of good architecture and appropriate landscape design. As a result, the proposed development sits comfortably with the overarching sentiments of the NPPF.
- 6.10 The application site falls within the development boundary for the village of Ardleigh. Development in Tendring is focussed towards the larger urban settlements of Clacton and Harwich and the smaller towns and villages including Ardleigh. As the site falls within the settlement boundary, its development would be acceptable in principle, subject to other policies in the Local Plan.
- 6.11 Two such polices are Policies COM7 and COM7a, which seek to protect such land from development, which leads to their loss, either fully or in part, particularly where the land concerned fulfils an ongoing recreational or open space function. These policies will be considered below.
- 6.12 Other policies of note include EN17, which requires new development in conservation areas to preserve or enhance the character or appearance of the conservation area. This policy will be considered below.

### **Loss of Recreational Facility**

- 6.13 The application site has been designated within the Proposals Map of the Local Plan as protected existing recreational open space, linked to the Ardleigh Hall Leisure Club, and therefore protected by policies COM7 and COM7a of the Local Plan. As a result, this application is presented to committee as a departure from the Local Plan.
- 6.14 Policies COM7 and COM7a seek to protect land from development which leads to their loss, either fully or in part, particularly where the land concerned fulfils an ongoing recreational or open space function. The proposals involve land that was last used as a tennis court and an area of land occasionally used for overflow car parking. The tennis court is in a poor condition and has not been used by club members for more than three years. The club has two further courts, which are in better condition and members tend to use these courts from time to time. These are to remain and do not form part of the application site.
- 6.15 Comments received from Sport England as part of the consultation response advise that if the tennis court is genuinely redundant and that there is no demand for replacing the facility, the principle of developing the tennis court would be considered acceptable. However, Sport England would only be supportive if some form of mitigation is attained, and a financial contribution is ring fenced towards outdoor sports facility projects.
- 6.16 The Ardleigh Hall Leisure Club has confirmed in a letter that there is insufficient demand for the tennis court to be lost. They state the club now offers a wide range of facilities, including a swimming pool, gym and aerobic studio and along with the squash courts these are the areas that since they have taken over the facility in November 2008 they have focused their attention and investment on. Furthermore, although the club has three tennis

courts, they do not have any regular playing members and do not offer any form of tennis programme or membership. The court in question does not meet Lawn Tennis Association (LTA) standards in terms of its playing surface and would cost several thousand pounds to make safe to play on, an investment they simply can not justify in terms of the demand. The two courts, which will remain are playable and in reasonable condition, even though demand for them remains very limited.

- 6.17 As a consequence, it is considered the tennis court is therefore surplus to requirements and provides no real recreational value to the community. As the tennis court is not used, there will be no actual loss to the community as a result of the development. However, in light of the policy, it is appropriate to mitigate the loss of the tennis court, to the point where it is commensurate with the impact on the community. It is understood that the applicant has offered a financial contribution to be provided via a unilateral undertaking, which can be used to assist in the provision of play and or recreation within the Ardleigh parish.
- 6.18 Comments received at pre-application stage from Leisure Services indicated the erection of a tennis court including fencing equates to a price in the region of £20,000-£25,000 pounds. On that basis, a financial contribution towards a community facility of £20,000 has been sought from the applicant to compensation for the loss of the tennis court. A unilateral undertaking has been drafted and at the time of writing is waiting to be sent out to the applicant.
- 6.19 It is noted this stance is undertaken in line with advice received from Sport England. On this basis it is considered that the development is acceptable in principle, and overcomes the loss of existing recreational open space. Furthermore, it is considered that as the existing tennis court is available only to club members of Ardleigh Hall Leisure Club, the provision of additional community recreational facilities within the village of Ardleigh is arguably better for the community as a whole.

#### **Design and Layout of Proposal, including Impact on Conservation Area**

- 6.20 As previously explained, the site is located within the Ardleigh Conservation Area. In terms of its character, The Street at its southern end is characterised by smaller scale residential development, which is predominantly two storey and set close to the back of the footway. This character terminates just before the application site and the land opens up on the west side, and becomes the remnants of the parkland associated with Ardleigh Hall. At this point, trees line the edge of The Street (west) and soften views. The proposed dwellings are set behind these trees to maintain their contribution to the street scene. It is considered the trees will equally soften the proposed housing in the views and provide a mature setting, within which new planting is proposed and will assist further in settling the new development into this important location within the conservation area.
- 6.21 In terms of the house types, these are considered to be acceptable, and provide a mixture of traditional materials which preserve the character of the conservation area.
- 6.22 New metal railings are proposed to The Street frontage, with a new hedgerow set behind, to match existing railing in front of Westbury Lodge to the south of the application site. This boundary treatment is considered to be acceptable.
- 6.23 Following the submission of an earlier planning application this year (12/00552/FUL) for the same development which was subsequently withdrawn, a recent TPO has been served to protect a number of trees within the frontage of the application site, which include one Horse Chestnut, one Ash, one Oak, and two Lime trees (12/00003/TPO). This current application has amended the housing layout to take account of these newly protected trees. The Council's Tree and Landscape Officer has confirmed the proposed development can be implemented without harm being caused to the protected trees on the land, provided the

works on the site are undertaken in the manner described in the submitted Tree Report, and tree protection measures are carried during the construction phase. As a result, an appropriate condition can be attached to a planning permission.

- 6.24 It is considered that the development, if granted, would not have an adverse impact on the character and appearance of the conservation area, and would comply with policy EN17 of the Local Plan.
- 6.25 Furthermore, the proposed development is considered to accord with the Ardleigh Village Design Guide. This states that all new development will be encouraged provided the development is well designed and in keeping with the existing character of the Parish. Moreover, the Ardleigh VDS encourages good design and seek to protect or enhance the existing character of the parish, discourages uniformity of design and materials for new housing, and places trees as an important contribution to the character of the village.

### **Impact on Biodiversity**

- 6.26 An extended phase 1 habitat survey has been undertaken and submitted as part of the application, which found suitable nesting and foraging habitat for birds; with ivy covered trees which presented a negligible to very low potential to support roosting bats. The majority of the site is of low ecological value, comprising a large area of species poor amenity grassland, existing hard standing, small groups of trees and an area of ruderal vegetation; however some of the boundary trees and shrubs are of moderate to high ecological value.
- 6.27 Following the submission of this survey, Natural England has advised that permission can be granted, and conditions are to be attached to ensure any works to the existing trees are not undertaken during the period October to February to avoid the bird nesting season, and ivy-covered trees are not removed or subject to tree works during the period September to May to avoid the hottest summer months where there is very low potential for occasional individual bats to roost amongst the dense ivy stems.
- 6.28 Given that the key recommendations of the phase 1 habitat survey are carried out (as above), it is concluded that the proposed development will not have an adverse impact on the nature conservation interests of the area.

### **Impact upon Amenity**

- 6.29 The application site is in proximity to residential properties. However, only two residential properties share a boundary with the application site to the south, those being Westbury Lodge and Crossways.
- 6.30 However, it is considered that the proposed development would not have an adverse impact on the amenities of neighbouring residential dwellings. Westbury Lodge is the closest of the two dwellings to this proposed development. Plot 2 provides a southern aspect gable and flank wall which looks towards Westbury Lodge. However, as the only first-floor windows in this elevation are a bathroom and en-suite, overlooking issues are not considered to be relevant. Furthermore, plot 3 (east elevation) provides a flank wall which looks towards Westbury Lodge. However, as the only first-floor window in this elevation is an en-suite, overlooking issues are not considered to be relevant.
- 6.31 An objection has been received from Crossways with regards to overlooking their rear garden from plots 3 and 4. First floor windows from plots 3 (bedroom x 2 and landing) and 4 (bedroom x 3) will overlook the rear garden of Crossways, however this is not considered to amount to a significant overlooking issue to warrant a refusal of planning permission, especially as mature trees are to be retained on this boundary with Crossways.

- 6.32 It is concluded that the proposed development will not have an adverse impact on the residential amenities of neighbouring residential properties.

#### **Impact on Highways/Parking Provision**

- 6.33 Concern has been raised with regards to the loss of an existing overflow car park at the Leisure Club, and as a result the impact this will have on the adjacent highway by increased amounts of roadside parking.
- 6.34 Although it is noted the overflow car park provides occasional parking, it is also noted that the remaining vehicle parking, which can number 48 spaces, would continue to comply with current parking standards for a D2 'leisure' use, which would require a maximum of approx 48 spaces.
- 6.35 The proposed dwellings also comply with current parking standards, in that each dwelling is provided with at least two parking spaces.
- 6.36 The Highway Authority has raised no objection subject to standard conditions.
- 6.37 As a result, the proposed development complies with adopted parking standards and the resultant parking provision in association with the Leisure Club remains within adopted standards.

#### **Other Issues**

- 6.38 Policy COM6 of the Adopted Tendring District Local Plan (2007) states that residential development below 1.5 hectares in size, where existing public open space facilities are inadequate, shall provide a financial contribution towards the provision of new or improved off-site facilities to meet the projected needs of the future occupiers of the development. Arleigh is identified within the Supplementary Planning Document for Policy COM6 (February 2011) as an area with a current deficiency in equipped play/open space. A unilateral undertaking has been drafted and at the time of writing is waiting to be sent out to the applicant.
- 6.39 An assessment of the site to discover the potential for sources of contamination has been undertaken, and the survey submitted as part of the application revealed that the site is unlikely to contain harmful substances. The Council's Public Experience dept have been consulted in relation to this matter. They have advised that historical records indicate that this land had a potentially former contaminative land use, as an unknown infill. Gas protection will also need to be considered due to possible unauthorized infill of pits etc. As a result, the standard land contamination condition is considered to be appropriate to attach to any planning permission granted to address these concerns.
- 6.40 Concerns have been raised with regards to surface water drainage. The development proposes to dispose of surface water to soakaways. The ground conditions are understood to be compatible for good permeable ground soakaways, and such matters will be dealt with at the building regulations stage, however it is also considered appropriate to attach a condition to any planning permission requiring details of the surface water disposal measures to be agreed in writing before commencement of any development.

#### **Background Papers**

None.