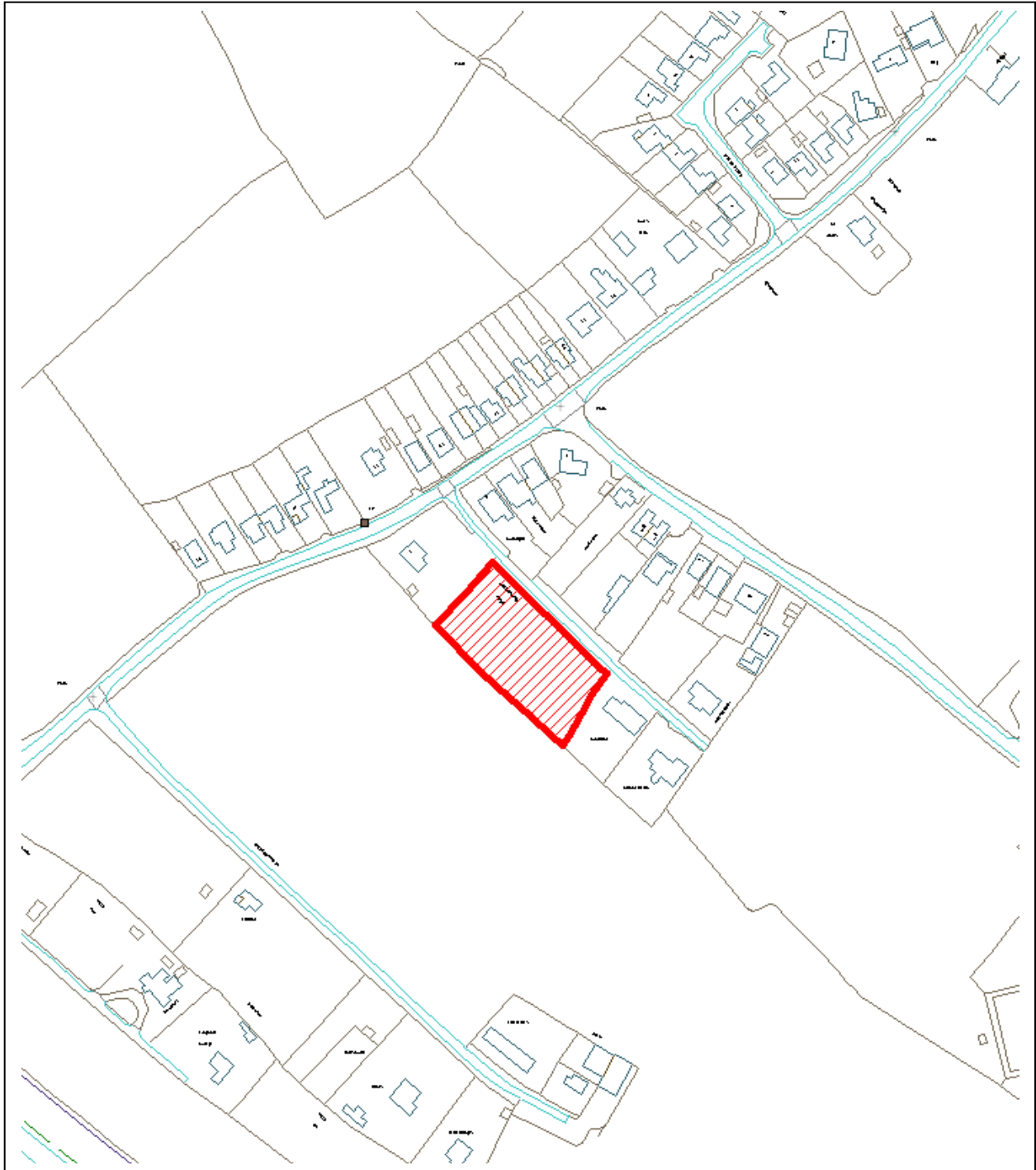


PLANNING COMMITTEE

8<sup>TH</sup> OCTOBER 2013

REPORT OF THE HEAD OF PLANNING

**A.4 PLANNING APPLICATION - 13/00897/OUT - LAND ADJACENT TO ROSEDENE ROXBURGHE ROAD, WEELEY, CO16 9DU**



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<b>Application:</b>	13/00897/OUT	<b>Town / Parish:</b> Weeley Parish Council
<b>Applicant:</b>	Mr Brian Crook	
<b>Address:</b>	Land adjacent to Rosedene Roxburghe Road Weeley CO16 9DU	
<b>Development:</b>	Construction of 3 two storey houses.	

## 1. Executive Summary

- 1.1 The application has been referred to Planning Committee by Councillor D. Skeels.
- 1.2 The application seeks outline planning permission with all matters reserved for later approval (access, appearance, landscaping, layout and scale). The proposal was originally for four dwellings, however this has now been reduced to three dwellings. Indicative layout and street scene drawings have been provided to illustrate how three dwellings could be satisfactorily accommodated on the site.
- 1.3 The site is accessed from Roxburghe Road which is an unmade private road off Bentley Road. To the North West corner of the site is a protected Oak tree and to the south east boundary is a group of three protected Oak trees and one protected Holly tree. A tree survey has been submitted which demonstrates that the site could be developed for three dwellings without harm to the protected trees.
- 1.4 The site lies outside the defined settlement boundary of the saved Local Plan but within the settlement boundary of the draft Local Plan. Officers are recommending no change to the boundary in this location, so the draft Local Plan can be applied pragmatically at this stage, despite the fact it has yet to be formally adopted. The principle of residential use is therefore accepted.
- 1.5 The development would not result in any material harm to visual amenity or the rural character of the area subject to assessment of the detailed design at reserved matters stage.
- 1.6 There is no objection on highway safety or residential amenity grounds and the unilateral undertaking to provide a financial contribution towards public open space is currently being progressed. Approval is therefore recommended subject to satisfactory completion of the legal agreement within three months.

**Recommendation: That the 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 matter:
  - Public Open Space Provision
- (b) Planning conditions in accordance with those set out below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning considers appropriate)

**Conditions:**

1. Standard time limit for commencement and submission of reserved matters condition (access, appearance, landscaping, layout and scale).
2. Construction Method Statement (providing details of parking, loading, turning, wheel and under body washing and storage of plant and materials during construction period).
3. Tree protection measures as detailed in submitted Arboricultural Impact Assessment.

(c) The 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 saved Local Plan policy COM6 and draft Local Plan policy PEO22.

**2. Planning Policy**

National Policy:

National Planning Policy Framework (2012)

- 2.1 The National Planning Policy Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development and to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

Local Plan Policy:

*Tendring District Local Plan (2007)*

QL1	Spatial Strategy
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
HG9	Private Amenity Space
COM6	Provision of Recreational Open Space for New Residential Development
TR1a	Development Affecting Highways
TR7	Vehicle Parking at New Development

*Tendring District Local Plan Proposed Submission Draft (2012)*

SD1	Presumption in Favour of Sustainable Development
SD3	Key Rural Service Centres
SD5	Managing Growth
SD9	Design of New Development

PE04	Standards for New Housing
PEO22	Green Infrastructure in New Residential Development
SD8	Transport and Accessibility

### 3. **Relevant Planning History**

3.1 The outline planning applications below were all for single dwellings on part of the current application site. Permission was refused for the reasons detailed below. No appeals were submitted.

96/01564/OUT	One detached dwelling.	Refused	21.01.1997
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3.2 Reason for refusal: Location outside the defined settlement limits and harm to the appearance and character of the rural locality.

01/00493/OUT	Detached four bedroom house with detached double garage and stable.	Refused	03.05.2001
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3.3 Reason for refusal: Location outside the defined settlement limits; mass, siting and means of access would be harmful to the rural character of the area; loss of high grade agricultural land; intensify use of a substandard roadway with poor driver visibility at the junction with Bentley Road; and would set a precedent for similar development which would damage the character of the area.

03/00375/OUT	Single dwelling house and double garage.	Refused	24.04.2003
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3.4 Reason for refusal: Location outside the defined settlement limits; mass, siting and means of access would be harmful to the rural character of the area; loss of high grade agricultural land; intensify use of a substandard roadway with poor driver visibility at the junction with Bentley Road; and would set a precedent for similar development which would damage the character of the area.

### 4. **Consultations**

4.1 Weeley Parish Council object on the following grounds: The site is situated on a narrow unmade road; previous applications for a single dwelling have been refused and there do not appear to have been any material changes which would now make the site able to support multiple large dwellings. This site was not included in the final version of the new local plan.

4.2 *In response to the Parish Council's concerns: The site is served by a narrow unmade private road as discussed in the report below at paragraph 6.8. The planning history of the site is also detailed in the report at paragraph 3. The previous objections in relation to loss of high grade agricultural land are not considered to be grounds for refusal for the current application in light of the presumption in favour of sustainable development in the National Planning Policy Framework and the fact that the land has been out of agricultural use for a significant period of time, now having the appearance of undeveloped garden land. There has been a very significant change with the inclusion of the land within the settlement limits of the draft Local Plan as detailed at paragraph 6.5 below and this change has resulted in the residential development of the site now becoming acceptable in principle.*

4.3 Essex County Council Highways – Observe that Roxburghe Road is classified as a Private Road, however, as the development is in close proximity to the junction with Bentley Road

the Highway Authority comments accordingly. No objection subject to condition requiring Construction Method Statement providing details of parking, loading, turning, wheel and under body washing and storage of plant and materials during construction period.

## 5. Representations

5.1 Councillor D. Skeels has requested that this application be determined at Planning Committee for the following reasons: Highways impact and/or other traffic issues.

5.2 Seven letters of objection (to the original proposal for 4 dwellings) have been received and are summarised as follows (*with Officer response in brackets*):

- Previous applications have been refused no further dwellings should be built here (*the planning history of the site is detailed at paragraph three above. A significant change has occurred with the inclusion of the land within the draft settlement development boundary. The principle for residential development is now therefore deemed acceptable*).
- Applicant does not own the whole site (*it is correct that the two strips to either side of the site are unregistered land, however this does not prevent planning permission being granted or a legal agreement being executed. Planning permission goes with the land and the applicant has confirmed that they have ownership/control of all the land*).
- Applicant has right of way over the road but ownership is unknown (*no works are proposed to Roxburghe Road so only a right of way needs to be provided*).
- Part of the unregistered land was known as Percy Road and was used for turning before being closed by the applicant and should be reinstated (*this land is currently grassed with a field boundary to the rear. This comment does not equate to a material consideration in planning terms*).
- Additional dwelling will exacerbate problems with power cuts (*this is a matter controlled outside the planning system*).
- Increased noise from additional families/vehicles (*it is not considered that the activities of three additional dwellings would result in material harm to the amenities of neighbouring residents*).
- Protected trees (*a tree survey has been submitted to assess the impact on the protected trees as discussed at paragraphs 6.11-6.13 below*).
- Will exacerbate poor surfacing of private road and should be improved with resurfacing, turning space, drainage, footpath, street lighting, passing place, and legal framework to ensure maintenance costs are shared (*these works could not be considered reasonable in relation to the scale of the development proposed or considered necessary to make the development acceptable in planning terms. Highway safety matters are fully addressed in the report below*).
- Potential of increased accidents on Bentley Road with poor visibility and surface water flooding (*no objection has been raised by the Highway Authority and it is not considered that the proposal for three dwellings would result in any material harm to highway safety. The site and Bentley Road do not lie in a flood zone and the proposal would not increase surface water onto Bentley Road*).
- Will increase amount of household waste at end of the road near my property as the recycling lorry doesn't come up the road (*this is a common problem for private roads and is not something which can be resolved under the planning application. Although inconvenient for the neighbouring resident this is not considered sufficient grounds for objection on residential amenity grounds*).
- Overdevelopment (*this comment relates to the original proposal for four dwellings. It is considered that the amended proposal for three dwellings would reflect the density of surrounding development and would provide adequate private amenity space and off street parking*).

- Dwelling proposed would overlook us (*the plans shown are indicative so any overlooking concerns would be addressed at reserved matters stage. It would clearly be possible to design dwellings with no overlooking to existing residents so an objection cannot be sustained on this ground*).
- If approved would set a precedent for housing on opposite side of Roxburghe Road with much greater impact on the road surface and access (*that land is also included within the draft settlement limits however any application would obviously be assessed on its merits related to the specific site constraints and detail of that proposal*).
- Loss of valuable habitat for butterflies, hedgehogs, voles, birds and flowers (*the site is relatively clear of dense vegetation and is considered unlikely to provide habitat for protected species. The species listed are not protected and should be able to remain on site within the domestic gardens*).

5.3 Two letters of objection (to the amended proposal for 3 dwellings) have been received and new comments raised are summarised below (*with Officer response in brackets*):

- Boundary hedge should be retained (*this is a landscaping matter for consideration at reserved matters stage*).

5.4 Four letters of support (to the original proposal for 4 dwellings) have been received and are summarised as follows:

- Good use of land that has been vacant for many years.
- Housing is much needed in the village.
- Land is an eyesore with fly tipping and previously attracted travellers.
- Natural infill plot between the existing properties.
- Each house will have its own parking and turning so will not harm highway safety.
- Enable people to enjoy the rural setting and outstanding education at the village school.

## 6. **Assessment**

6.1 The main planning considerations are:

- Planning Policy;
- Highway safety;
- Trees;
- Residential amenity; and,
- Public open space contribution.

### **Proposal**

6.2 The application seeks outline planning permission with all matters reserved for later approval. The proposal was originally for four dwellings, however this has now been reduced to three dwellings to keep built development away from the protected trees. Indicative layout and street scene drawings have been provided to illustrate how three dwellings could be accommodated on the site however these do not formally form part of the planning application. There are concerns with the bulk of the dwellings shown on the indicative layout but these would be addressed at the reserved matters stage.

6.3 In support of the application a letter dated 2001 has been provided stating that the land is too small to be profitably, or practicably, farmed and an established hedgerow separates it from the remaining farmland. A letter from a Police Officer dated 2003 raises no highway safety, visibility or accident data concerns. These letters are not considered to provide any justification for the Officer recommendation.

### **Site Location**

- 6.4 The site is accessed from Roxburghe Road which is an unmade private road off Bentley Road. The land is generally open grassland with a hedgerow along the rear boundary with open farmland beyond. Towards the front of the site there are clusters of young trees and scrub. To the north west corner of the site is a protected Oak tree and to the south east boundary is a group of three protected Oak trees and one protected Holly tree.
- 6.5 A detached bungalow (7 Bentley Road) abuts the north west boundary of the site, a detached one and a half storey house (Rosdene) abuts the south east boundary with two other dwellings also accessed from the private track, with additional rear accesses to some dwellings fronting Mill Lane.

### **Planning Policy**

- 6.6 The site lies outside the defined settlement boundary of the saved Local Plan but within the settlement boundary of the draft Local Plan. The draft Plan has now progressed and Officers are nearing completion of the document confirming what changes need to be made to the Plan before it can be submitted for independent examination. Whilst objections were received relating to the proposed spatial strategy and the general distribution of growth around the District and more specifically in Weeley/Weeley Heath, none were received relating to the proposed inclusion of land at Roxburghe Road within the Settlement Development Boundary. Officers are therefore recommending no change to the boundary in this location, so the draft Local Plan can be applied pragmatically at this stage, despite the fact it has yet to be formally adopted. The principle of residential use is therefore accepted subject to material considerations discussed below.
- 6.7 Draft Policy SD3 identifies Weeley and Weeley Heath as a key Rural Service Centre, where draft Policy SD5 (Managing Growth) states the settlement development boundaries are defined beyond the extent of existing built development in specific locations to allow planned settlement expansion where necessary to deliver the required levels of growth.
- 6.8 In this case, residential development of this land would represent an infill between existing dwellings and would not result in any material harm to visual amenity or the rural character of the area subject to the submission of acceptable design, scale and siting of the proposed three dwellings which would be assessed at reserved matters stage. There is therefore no objection in principle to the erection of three dwellings on this site subject to the detailed considerations below.

### **Highway Safety**

- 6.9 Roxburghe Road is an unmade private road and is subject to maintenance by the existing residents. It is not considered that the provision of three additional dwellings off this private track would result in any material harm to highway safety either along Roxburghe Road or at its junction with Bentley Road. Although all matters are reserved there would be ample space on site for the parking and turning of vehicles serving three dwellings.
- 6.10 The Highway Authority has no objection to the proposal subject to a condition requiring submission of a Construction Method Statement to provide details of parking, loading, turning, wheel and under body washing and storage of plant and materials during the construction period.
- 6.11 A local resident has allegedly contacted a Councillor at Essex County Council and stated a report in relation to the residents' highway safety concerns will be prepared by Essex County Highways. However Essex County Council, as the Highway Authority, have

confirmed that they have no further comments to make and the application is therefore deemed acceptable in highway safety terms.

### **Trees**

- 6.12 To the North West corner of the site is a protected Oak tree and to the south east boundary is a group of three protected Oak trees and one protected Holly tree. The trees are mature, healthy specimens that make a positive contribution to the character and appearance of the area. An arboricultural impact assessment has been provided to show the extent of the constraint that the trees put on the potential area for development.
- 6.13 The indicative layout provided shows only a minor incursion into the root protection area of one of the Oak trees (T2) on the south east boundary and would therefore be unlikely to cause any significant harm to any of the protected trees. The site can therefore clearly accommodate three dwellings without harm to any of the protected trees.
- 6.14 A condition has been recommended to secure the Tree protection measures as detailed in the submitted Arboricultural Impact Assessment relating to works in close proximity to the trees, hard surfacing, storage of materials etc.
- 6.15 Landscaping is a reserved matter so appropriate surfacing and soft landscaping would be assessed at that stage. This will include the need to secure a sympathetic rear boundary treatment such as a strengthened native hedgerow in the interests of preserving the rural character of the surrounding area.

### **Residential Amenity**

- 6.16 Appearance and layout are reserved for subsequent approval. However it would clearly be possible to site three dwellings on the land while preserving the amenity of neighbouring residents in terms of privacy and light. It is not considered that the movements associated with three additional dwellings would result in any material harm to residential amenity in terms of noise disturbance.

### **Public open space contribution**

- 6.17 Saved Policy COM6 and draft Policy PEO22 state for residential development on sites below 1.5 hectares in size, where existing public open space facilities are inadequate, a financial contribution will be made towards the provision of new or improved off-site facilities to meet these needs.
- 6.18 There is an identified deficit in both equipped play and formal open space in the Parish so a financial contribution is justified in this case. A legal agreement is currently being produced and the recommendation allows three months for this to be completed, or planning permission should be refused in accordance with Saved Policy COM6 and draft Policy PEO22.

### **Background Papers**

None.