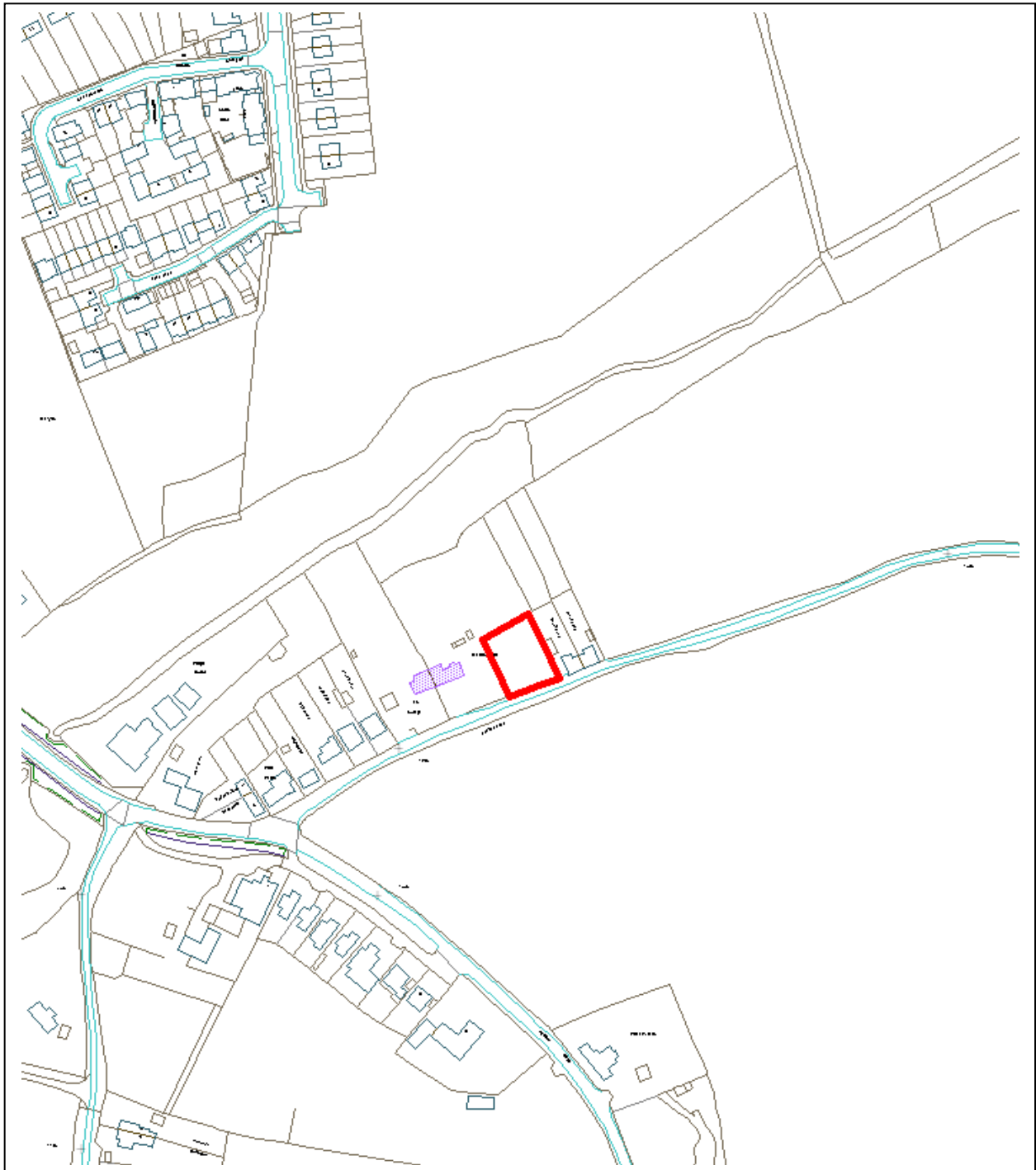


PLANNING COMMITTEE

1 APRIL 2014

REPORT OF THE HEAD OF PLANNING

A.5 PLANNING APPLICATION - 13/01448/OUT - LAND ADJACENT THE OLD COTTAGE DALTES LANE, ST OSYTH, CO16 8RZ



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Application:	13/01448/OUT	Town / Parish: St Osyth Parish Council
Applicant:	Mr & Mrs R & I Jacobs	
Address:	Land adjacent The Old Cottage Daltes Lane St Osyth CO16 8RZ	
Development:	To construct one dwelling.	

1. Executive Summary

- 1.1 The application site lies outside of any defined settlement development boundaries as set out in the Tendring District Local Plan (2007) or the Tendring District Local Plan Proposed Submission Draft (2012). Policies within these plans seek to restrict development to within the settlement development boundaries.
- 1.2 Outside of these boundaries Policy states that permission is to be refused for new residential development subject to specified exceptions. Officers consider that that the proposed development would fail to comply with criteria as set out in Policy SD5 of the Tendring District Local Plan Proposed Submission Draft (2012). Given the foregoing it is considered that the principle of residential development on this site is not acceptable.
- 1.3 In addition it is considered that the proposed development would reduce the openness of the site which greatly contributes to the character and appearance of the area. Given this harm to the character and appearance of the area it is consider that the proposal would conflict with Policy QL1 of the Adopted Local Plan and the following further policies: Policy EN1, which seeks amongst other things to conserve the settings and character of settlements, Policy QL9, which requires that all new development should protect or enhance local character, and Policy QL11 insofar as that Policy requires that the nature of new development be appropriate to its locality. It is also considered that the proposal would be contrary to the advice of the National Planning Policy Framework (the Framework) that planning should recognise the character and intrinsic beauty of the countryside and that proposals should establish a strong sense of place and respond to local character.

Recommendation: Refuse

Reason for Refusal:

It is the policy of the Local Planning Authority, as set out in the Development Plan for the area, to require that all new development relates satisfactorily to its surroundings in terms of its siting, appearance in the locality and relationship with neighbouring properties. In addition, proposals should conform to the principles of sustainability which, inter alia, advocate the provision of new housing development within defined settlements where there is good access to local services by a range of modes of transport, in particular, proposals should minimise the need to travel, especially by private motor-car.

In this case, the proposal is located in a location outside of any defined settlement limits as defined by Policy QL1 of the Tendring District Local Plan 2007 as well as Policy SD5 of the Tendring District Local Plan Proposed Submission Draft. New residential development unrelated to rural purposes is, therefore, unacceptable as a matter of principle.

The Local Planning Authority is of the opinion that the development, if approved, would result in a development of the site that would lead to the sprawl of urban development outside of the

defined settlement limits in an unsustainable rural location with regard to access to facilities such as employment and education, which would be detrimental to character and openness of the countryside and the principles of sustainable development. In addition, no special circumstances have been put forward that would justify granting permission for a development that would be contrary to the objectives of the Development Plan policies.

The proposal would, therefore, be contrary to Policies QL1, QL2, QL9, QL11, HG3 and EN1 of the adopted Tendring District Local Plan 2007, and Policies SD1, SD5, SD9 and PLA5 of the Tendring District Local Plan Proposed Submission Draft (2012).

2. Planning Policy

National Policy:

National Planning Policy Framework (2012)

Local Plan Policy:

Tendring District Local Plan 2007

QL1	Spatial Strategy
QL2	Promoting Transport Choice
QL9	Design of New Development
QL11	Environmental Impacts and Compatibility of Uses
HG1	Housing Provision
HG3	Residential Development Within Defined Settlements
EN1	Landscape Character
TR1A	Development Affecting Highways
TR7	Vehicle Parking at New Development
COM6	Provision of Recreational Open Space for New Residential Development

Tendring District Local Plan - Proposed Submission Draft (2012)

SD1	Presumption in Favour of Sustainable Development
SD4	Smaller Rural Settlements
SD5	Managing Growth
SD8	Transport and Accessibility
SD9	Design of New Development
PEO1	Housing Supply
PEO4	Standards for New Housing

PEO22 Green Infrastructure in New Residential Development

PLA5 The Countryside Landscape

3. Relevant Planning History

TRE/94/47	T.1 - Magnolia - Crown reduce	Current	30.11.1994
01/01362/TPO	Reduce Magnolia at front of property by 25%	Approved	21.09.2001
99/01019/OUT	One dwelling	Refused	27.08.1999
07/01942/TPO	T1 - Magnolia (Tan Cottage) - reduce crown by 20%. T2 - Magnolia (Old Cottage) - reduce crown by 10 - 20%	Approved	24.12.2007
13/01448/OUT	To construct one dwelling.	Current	

4. Consultations

Principal Tree &
Landscape Officer

The application site is mainly rough grass with a few specimen trees and shrubs. In the main body of the land there is a small group of Hawthorn. None of this vegetation merits protection by means of a Tree preservation Order.

On the southern boundary with the highway there is a young Pine that makes a reasonable contribution to the appearance of the area although its amenity value could be easily replicated by new planting. The Buddleia situated on the front boundary is of no real consequence.

The land to the west of the application site is affected by TPO/94/19 and affects 4 individual trees within the curtilage of Tan Cottage and Old Cottage. The woodland to the north east to the rear of Brookwood is also affected by TPO/94/19.

The application site is of such a size that a dwelling situated centrally would be unlikely to have adverse impact on any of the protected trees on adjacent land

It is not considered necessary for the applicant to provide a full tree report and survey however it will be necessary for them to show the extent of the Root Protection Area of the trees to establish how far the roots of the tree may spread into the application site. If the roots have encroached onto the application site then the applicant will need to demonstrate how they will be physically protected for the duration of the construction phase of any development that may be granted consent. This information should be in accordance with the recommendations contained in BS5837: 2012 Trees in relation to design, demolition and construction.

The Highway Authority assumes that the existing access will be utilised for the proposed dwelling and provide access to the remainder of land shown edged blue.

The Highway Authority raises no objection subject to:-

1. Prior to the occupation of the proposed dwelling, the proposed private drive shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

2. Prior to the proposed access being brought into use, vehicular visibility splays of site maximum by 2.4m by site maximum, as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

3. No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

4. Prior to commencement of the proposed development, a vehicular turning facility for motor cars of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

5. Any garage provided with its vehicular door facing the highway, shall be sited a minimum of 6m from the highway boundary.

Reason: To ensure that the vehicle to be garaged may be left standing clear of the highway whilst the garage door is opened and

closed, 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.

6. All off street parking facilities shall be provided in accordance with the current Parking Standards.

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.

7. Prior to commencement of the proposed development, details of the provision for storage of bicycles, of a design which shall be approved in writing with the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

8. No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. wheel and underbody washing facilities

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

Informative1: All works affecting the highway to be carried out by prior arrangement with and to the requirements and specifications of the Highway Authority and application for the necessary works should be made initially by phone on 0845 603 7631.

5. **Representations**

- 5.1 St Osyth Parish Council raised no objections on the basis that the proposed infill will see one property built in an area of one acre, which is not part of the conservation area.
- 5.2 Eight letters of objection have been received and the matters raised can be summarised as follows:
 - Impact on Listed Building
 - Impact on immediate neighbours in relation to outlook, overbearing development and loss of privacy – *Comment* – The application is in outline form with all matters in relation to detailing reserved for later consideration.
 - Highway safety – *Comment* - Highway Authority raised no objection

- Character and appearance – Comment - The application is in outline form with all matters in relation to detailing reserved for later consideration.
- Parking
- Layout and density of building – Comment - The application is in outline form with all matters in relation to detailing reserved for later consideration.
- Design, appearance and materials – Comment - The application is in outline form with all matters in relation to detailing reserved for later consideration.
- Government Policy
- Disabled access
- Previous planning decisions
- Nature Conservation – Comment - The site has not been identified as within the Local Plan as a designated site for conservation.

6. Assessment

6.1 The main planning issue to be considered in the determination of this planning application is:

- Principle of Development;
- Impact upon character and appearance of the area;
- Policy considerations; and,
- Sustainability.

Site context

6.2 The application site is located outside of the of the settlement boundaries of St Osyth as defined within the Policies Map of the Tendring District Local Plan Proposed Submission Draft (2012). The application site lies on the northern side of Daltes Lane and currently forms part of the garden area for the residential dwelling known as The Old Cottage. This property is one of a pair of Grade II Listed Cottages. The site extends to about 0.06 hectares and is mainly grassland which is enclosed by a picket fence along the road frontage and by mature vegetation on the other boundaries. In January 2000 planning permission was refused at appeal for a similar outline application for the construction of a single dwelling on this site.

Proposal

6.3 This current application for a single two storey residential dwelling on this site has been submitted in outline form with all matters reserved for later consideration.

Principle of Development

6.4 It is noted that the National Planning Policy Framework (NPPF) came into effect on 27 March 2013. In paragraph 2 the NPPF re-enforces the fact that planning law requires that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. It goes on to state that the NPPF should be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions.

6.5 Further guidance is set out in paragraph 215 as to what would constitute an up to date Local Plan. The NPPF states that due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

- 6.6 In addition paragraph 216 sets out that from the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:
- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
 - the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
 - the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given) to which full weight can be given when considering planning applications.
- 6.7 Whilst there have been some objection to Policies within the Tendring District Local Plan Proposed Submission Draft (2102) to which limited weight can be given at present. However with particular relevance to the current application Policies QL1, QL2, QL9, QL11, HG3 and EN1 of the Tendring District Local Plan (2007) would be considered in the assessment of this scheme.
- 6.8 These Policies have been successfully supported at recent appeals on a number of occasions with Inspectors stating that the Policies were not in conflict with the aims and objectives of the NPPF and could be given full weight as set out in paragraph 215 of the NPPF.
- 6.9 Having established the relevance of those Policies in the Tendring District Local Plan (2007) it is considered that when evaluating applications for development in locations such as this site local planning authorities need to have regard to both national guidance and Development Plan Policies, which generally seek to resist development in order to protect the natural value of the countryside and promote a high standard of design and layout.
- 6.10 Outside of Settlement Development Boundaries, long established local policies, as set out in the Development Plan, all presume against new residential development in the countryside unrelated to rural purposes, in order to protect the open character and beauty of the countryside for its own sake and in the interests of sustainability.
- 6.11 This is achieved by refusing planning permission for development unless a site is specifically allocated for a particular form of development or land use on the Local Plan Policies Map and Policies Map Insets or the applicant can demonstrate that the proposed development meets a number of strict criteria as set out in Policies QL1 of the Tendring District Local Plan (2007) which have been re-enforced within Policies SD5 and PEO8 of the Tendring District Local Plan Proposed Submission Draft (2012). In this instance, the application site is not only outside of any settlement limits but it is not required in connection with any rural activity, such as agriculture. Neither would the proposal be a replacement for an existing dwelling nor would it provide an element of affordable housing, which can sometimes be a basis for an exception to the normal presumption against new housing in the countryside (though even then only where the plot adjoins the settlement limit, which does not apply here either).
- 6.12 Based on the above it is considered that the principle of development of a single residential dwelling with a detached garage in the countryside would not be acceptable in this instance unless material planning considerations can be shown to overcome the policy harm and harm to the character and appearance of the countryside.

Character and appearance

- 6.13 The application site lies on the northern side of Daltes Lane and forms part of the garden area associated with The Old Cottage. Daltes Lane is set apart from the village of St Osyth both visually and physically. In considering the character of the area it is noted that Daltes

Lane is a single width country lane which serves a few residential dwellings towards its western end with further scattered dwellings and a farmstead to the south. Based on the above it is concluded that the character of the area is that of a scattered and isolated community which reinforces the countryside location of the site. The Planning Inspector in considering the previous appeal, T/APP/P1560/A/99/1029734/P4, shared this view of the overall character of the area.

- 6.14 The Inspector stated “The openness of the site, in my opinion, contributes to the character of the area. Its development would consequently lead to the erosion of the visual qualities of this part of Essex and would have a harmful impact on the character and appearance of the area”.
- 6.15 It is noted that the applicants in support of the application state that whilst the previous appeal was dismissed based on the character and appearance of the area there have been significant changes in planning legislation since that time. Officers however consider that whilst there have been changes to planning legislation matters in relation to character and appearance are still material planning considerations. In any event, the major change since the previous appeal was dismissed was the NPPF coming into effect on 27 March 2013. This document sets out that within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. One of these principles specifically sets out that planning should:
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.
- 6.16 The applicants indicate in their planning statement that since the Planning Inspector dismissed the previous appeal the site has been substantially landscaped with mature trees and a hedgerow forming the northern boundary of the site which now longer appears as the side garden of The Old Cottage.
- 6.17 Notwithstanding the above Officers note that no information has been provided to indicate how much of this vegetation would need to be remove to facilitate the development of this site which, if significant, could open up the site. In any event it is considered that the landscaping of a site does not reduce its function in relation to the openness and of the area.
- 6.18 Having regard to the above, Officers consider, like the Planning Inspector did, that the openness of the site contributes to the character of the area and that its development with a single two storey residential dwelling would lead to the erosion of the visual qualities of this part of the district and would have a harmful impact on the character and appearance of the area.
- 6.19 Based on the above it is concluded that the a dwelling on this site would result in the urbanisation and erosion of the character and openness of the countryside in this location contrary to Policies QL9, QL11 and EN1 of the Tendring District Local Plan (2007) as well as Policy SD9 and PLA5 of the Tendring District Local Plan Proposed Submission Draft (2012).

Policy considerations

- 6.20 In paragraph 5.3 of the Planning Statement the applicants refer to the fact that Tendring District Council is unable to demonstrate an adequate five year housing supply.

- 6.21 In this regard it is considered that in the Council's emerging Local Plan, the total expected dwelling stock increase for the period 2014 to 2029 is approximately 5,600 (as set out in the 2014 Pre-Submission Focussed Changes to the Local Plan) – which equates to an average of 373 dwellings per annum. Based on this target, a 5 year supply of housing (and the 20% buffer required by the National Planning Policy Framework) represents 2,238 dwellings ((373 x 5) +20%). This is a level of development that, based on the evidence in the Council's 2013 Strategic Housing Land Availability Assessment (SHLAA), is considered to be realistic and deliverable within the Local Plan timescale.
- 6.22 The pure objectively assessed need for housing in Tendring is 10,960 between 1st April 2013 and 31st March 2029 based on evidence contained in the Council's 2013 Strategic Housing Market Assessment, which does not take into account any economic, physical, environmental or infrastructure constraints. This equates to an average of 685 dwellings per annum. Based on this pure objectively assessed need figure, a five year supply of housing (and the 20% buffer required by the National Planning Policy Framework) represents 4,110 dwellings ((685 x 5) +20%) with a need to add on any shortfalls from previous years. The under-provision from previous years (since 1st April 2013) is 0 so the total National Planning Policy Framework requirement is 4,110 dwellings. This is far above what is considered realistically deliverable.
- 6.23 The Draft Local Plan (as amended by the 2014 Pre-Submission Focussed Changes) allocates specific sites to deliver approximately 3,625 new homes in the first 10 years of the plan period of which the number of dwellings expected to come forward in the next five years based on evidence contained in the Council's 2013 SHLAA and outstanding planning permissions is 1,213 dwellings. This represents approximately 30% of the 4,110 dwellings required by the National Planning Policy Framework in the next 5 years – equivalent to 1.5 years of supply – or 54% of the 2,238 dwellings required by the emerging Local Plan in the next 5 years – equivalent to 2.7 years supply. The Draft Local Plan also identifies potential broad areas to deliver a further dwelling stock increase of at least 2,000 new homes for which additional land will be allocated through an evidence-based review of the Local Plan. The SHLAA will be updated during 2014 and, given improvements in housing market in recent months, the assumptions for delivery over the rolled-forward 5 year period may be revised to be more optimistic.
- 6.24 Based on the above assessment it is considered that the suggested benefits of the development as stated by the applicant (1 additional dwelling) in this regard carries limited weight that would not be sufficient to overcome the Policy harm or the harm to the character and appearance and openness of the countryside in this location.

Sustainability

- 6.25 The proposed outline application for the erection of one dwelling is located outside of the of the settlement boundaries of St Osyth as defined within the Policies Map of the Tendring District Local Plan Proposed Submission Draft (2012). The application site lies on the northern side of Daltes Lane and currently forms part of the garden area for the residential dwelling known as The Old Cottage.
- 6.26 The addition of a new dwelling here would be at variance with the principles of sustainability as promoted by the NPPF that underpin the policies that apply in the Local Plan. These seek to concentrate new development in existing urban centres where services are most easily and most efficiently accessible to the greatest number of people. These polices also reduce the dependence on the use of the private motor car to access local services.
- 6.27 In this case, the site is located outside of any defined settlement boundaries and is relatively distant from local services in St Osyth. There will, therefore, inevitably be a high

reliance on the use of a private motor car, which is precisely what the principles of sustainability seek to minimise.

Highways

- 6.28 The Highway Authority raised no objections to the proposed development subject to the inclusion of the conditions as set out above.

Trees and Landscape

- 6.29 The Council's Tree and Landscape Officer noted that the application site is mainly rough grass with a few specimen trees and shrubs. In the main body of the land there is a small group of Hawthorn. None of this vegetation merits protection by means of a Tree preservation Order.
- 6.30 On the southern boundary with the highway there is a young Pine that makes a reasonable contribution to the appearance of the area although its amenity value could be easily replicated by new planting. The Buddleia situated on the front boundary is of no real consequence.
- 6.31 The land to the west of the application site is affected by TPO/94/19 and affects 4 individual trees within the curtilage of Tan Cottage and Old Cottage. The woodland to the north east to the rear of Brookwood is also affected by TPO/94/19.
- 6.32 The application site is of such a size that a dwelling situated centrally would be unlikely to have adverse impact on any of the protected trees on adjacent land
- 6.33 It is not considered necessary for the applicant to provide a full tree report and survey however it will be necessary for them to show the extent of the Root Protection Area of the trees to establish how far the roots of the tree may spread into the application site. If the roots have encroached onto the application site then the applicant will need to demonstrate how they will be physically protected for the duration of the construction phase of any development that may be granted consent. This information should be in accordance with the recommendations contained in BS5837: 2012 Trees in relation to design, demolition and construction.

Listed Building

- 6.34 The National Planning Policy Framework (NPPF) in Chapter 12 places great importance on the conservation and enhancement of the historic environment.
- 6.35 Although PPS5 has been replaced by the NPPF the Historic Environment Planning Practice Guide of this document still remains valid.
- 6.36 In paragraph 160 it is stated that, restoration is likely to be acceptable if:
1. The significance of the elements that would be restored decisively outweighs the significance of those that would be lost.
 2. The work proposed is justified by compelling evidence of the evolution of the heritage asset, and is executed in accordance with that evidence.
 3. The form in which the heritage asset currently exists is not the result of a historically-significant event.
 4. The work proposed respects previous forms of the heritage asset.
 5. No archaeological interest is lost if the restoration work could later be confused with the original fabric.

6. The maintenance implications of the proposed restoration are considered to be sustainable.
- 6.37 Historic Environment Planning Practice Guide, paragraph 178, states that "It would not normally be acceptable for new work to dominate the original asset or its setting in scale, material or as a result of its setting".
- 6.38 The PPS5: Historic Environment Planning Practice Guide, paragraph 179, further states that "The fabric will always be an important part of the asset's significance". It goes on to require the retention of as much historic fabric as possible and concludes "it is not appropriate to sacrifice old work simply to accommodate the new".
- 6.39 These objectives are supported by Policy PLA8 of the Tendring District Local Plan Proposed Submission Draft which sets out that development affecting a Listed Building (or structure) or its setting (including buildings or structures within the historic curtilage of the Listed Building or structure) will only be permitted where it:
- a) is justified through an assessment of the works and their impact on the listed building and its setting provided as part of the application;
 - b) does not have an unacceptable effect on the special architectural or historic character and appearance of the building or setting;
 - c) uses building materials, finishes and building techniques, including those for features such as walls, railings gates and hard surfacing, that respect the listed building and its setting;
 - d) incorporates landscaping that has regard to the character and appearance of the Listed Building where landscaping is needed;
 - e) is of appropriate scale and design;
 - f) results, where relevant, in the removal of unsympathetic features and the restoration or reinstatement of missing features; and
 - g) would contribute towards ensuring the continued use of the building.
- 6.40 It is noted that the application site is located some distance to the east of the Listed Building at The Old Cottage. In addition it is considered that the existing formal gardens to the north-west and south-east would not be disturbed by the development of a single dwelling at this site. Further, considering that the current application is in outline form with all matters reserved it is concluded that subject to detailed design considerations a scheme could be achieved on this site without having an undue impact on the character or setting of the Listed Building at The Old Cottage. This conclusion is similar to the view reached by the Planning Inspector.

Open Space Provision

- 6.41 Policy COM6 of the adopted Tendring District Local Plan 2007 as well as Policy PEO22 of the Tendring District Local Plan Proposed Submission Draft sets out a requirement for developers of new residential developments to contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built. A unilateral undertaking has been completed and has been submitted.

Background Papers

None.