

Application:	14/00476/FUL	Town / Parish: Bradfield Parish Council
Applicant:	Bennett Homes	
Address:	The Orchard, Barrack Street, Bradfield CO11 2RB	
Development:	Demolition of existing outbuildings and the development of nine new dwellings with associated access and parking, together with the extension alteration and refurbishment of an existing cottage.	

Introduction

The application was deferred from the Planning Committee held on 16 September 2014 for two reasons:

1. To clarify the situation with the proposed footpath that ECC are installing at Steam Mill Road and the improvements to the junction with Barrack Street required by the ECC conditions in connection with the application. (Members will note that the list of Highways Conditions have changed compared to those reported previously).
2. To establish whether the holly and cherry tree can be retained and whether they are worthy of protection, possibly by realigning the proposed private access to accommodate their retention. (In this regard members will note that the Principle Tree and Landscape Officer's comments, whilst consistent with the officer's previous views, have been amended to reflect a further site visit subsequent to the Planning Committee meeting held on the 16th September 2014).

Members are advised that the two matters highlighted above are the only reasons for which the application was deferred from the previous Planning Committee and that the application was otherwise considered acceptable.

The original report has been reproduced for Members' convenience with the details around the deferred matters highlighted in **bold** within the relevant sections of the report.

In addition to the above the following points emerged from public speaking and during debate,

- Whether the certificate is correct –The application forms have been completed correctly. These indicate that Bennett Homes are making the application and whilst not the land owner they have completed Certificate B which indicates that the land owner was notified on 07/04/2014 that the application was to be submitted.
- Explanation of policy for 6% growth across the District – The spatial strategy in the 2012 Draft of the emerging Local Plan sought to distribute growth in a fair and proportionate way across all the settlements in the district by expecting all settlements to increase by 6%. However, this approach and applying the 6% as a cap to development attracted significant objections. The revised draft of the Local Plan will continue to identify Bradfield as a 'Smaller Rural Settlement' (due to its limited access to shops, services and facilities compared to more sustainable settlements elsewhere in the district) where growth will be limited to small-scale infill development (i.e. no single proposal greater than 10 dwellings unless supported by the Parish Council and where it will achieve certain local benefits) within defined settlement development boundaries but there will no longer be a 6% cap on the amount of development that could take place.

- Which neighbours were consulted – Neighbours were consulted in accordance with the Council's notification procedure which requires that all neighbours immediately adjoining or immediately opposite the site be notified. In accordance with this procedure properties at Appletree Cottage, Honeysuckle Cottage, Cherry Tree Cottage, Moonrakers, Songbird Cottage, Whitebeam, St Anselm, Ankedene, Mount Pleasant, Mount Pleasant Cottage, Horaces, Hazelwood, Kalewa and Sunnyside were notified in writing of the proposed works at The Orchards.

In addition to these letters an orange site notice was posted outside the site on 14/05/2014 giving 21 days to comment in writing to the Council.

No letters were sent to those properties around the junction of Barrack Street and Steam Mill Road as the proposed works at The Orchards are in no way linked to the highways works to be carried out by Essex County Council along Steam Mill Road. Any responsibility for notification with regard to these highways works lies with Essex County Council.

1. Executive Summary

- 1.1 The site lies within the revised Settlement Development Boundary of the village of Bradfield as identified within the Tendring District Local Plan Proposed Submission Draft (2012), but the site is adjacent to but outside the village development boundary as defined within the Tendring District Local Plan (2007).
- 1.2 Outside of these boundaries Policy QL1 of the Tendring District Local Plan (2007) and Policy SD5 of the Tendring District Local Plan Proposed Submission Draft (2012) states that permission is to be refused for new residential development subject to specified exceptions.
- 1.3 The National Planning Policy Framework however sets out that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 1.4 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers considered that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF and as a result the proposed development cannot be refused solely on the basis that a site is outside the development boundary.
- 1.5 Paragraph 14 of the NPPF sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 1.6 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight.
- 1.7 Officers conclude that the proposed development would satisfy the 3 dimensions of 'sustainable development' whilst also being able to achieve a development that would comply with Policies QL9, QL10 and QL11 of the Tendring District Local Plan (2007) as well as Policy SD9 of the Tendring District Local Plan Proposed Submission Draft (2012) and in would result in a scheme which does not present adverse impacts that would significantly and demonstrably outweigh the benefits of the proposed scheme.

Recommendation: Approve

Conditions:

1. Standard year time limit.
2. Development in accordance with submitted plans.
3. Existing hedges and trees and details of protective fencing.
4. Disposal of surface water drainage.
5. Ecological management scheme.
6. External facing and roofing materials.
7. Driveway and parking area materials.
8. Works to be carried out outside bird breeding season.
9. Off street parking in accordance with current Parking Standards.
10. Gates at vehicular access inward opening and recessed min. 6m.
11. Screen walls/fences.
12. Full method statement for approval by Pollution and Environmental Control.
13. Hard and soft landscaping.
14. Landscape planting period.
15. Existing and proposed site levels.
16. Private drive construction.
17. Proposed vehicular accesses (Plots 1 & 2).
18. Pedestrian visibility splays.
19. Vehicular visibility splays.
20. No unbound materials within 6m of highway boundary.
21. Estate roads and footways.
22. Construction of carriageway of estate roads.
23. New boundary hedges.
24. Bin/refuse collection point.
25. Construction method statement.
26. 2m wide kerbed walkable grass verge.

27. Extend carriageway width to Barrack Street.

2. **Planning Policy**

National Policy:

NPPF National Planning Policy Framework

Local Plan Policy:

Tendring District Local Plan 2007

QL1	Spatial Strategy
QL2	Promoting Transport Choice
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
HG1	Housing Provision
HG3	Residential Development Within Defined Settlements
HG3A	Mixed Communities
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
COM6	Provision of Recreational Open Space for New Residential Development
COM19	Contaminated Land
COM23	General Pollution
EN6	Biodiversity
EN13	Sustainable Drainage Systems
TR1A	Development Affecting Highways
TR3A	Provision for Walking
TR4	Safeguarding and Improving Public Rights of Way
TR7	Vehicle Parking at New Development

Tendring District Local Plan: Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014)

SD1	Presumption in Favour of Sustainable Development
SD4	Smaller Rural Settlements
SD5	Managing Growth
SD7	Securing Facilities and Infrastructure
SD8	Transport and Accessibility
SD9	Design of New Development
SD10	Sustainable Construction
PEO3	Housing Density
PEO4	Standards for New Housing
PEO7	Housing Choice
PEO22	Green Infrastructure in New Residential Development
PLA1	Development and Flood Risk
PLA3	Water Conservation, Drainage and Sewerage
COU6	Agricultural Buildings and Structures

Other guidance:

Essex County Council Car Parking Standards - Design and Good Practice

3. Relevant Planning History

89/02031/FUL	Extension	Approved	19.01.1990
03/00165/OUT	Erect one three bedroomed detached dwelling	Refused	24.03.2003
04/00935/OUT	Erect one 4 bedroom detached dwelling with double garage	Approved	03.07.2004
04/01562/FUL	Construct one 20m x 40m Menage	Approved	31.01.2005
10/00396/FUL	Two storey side and front extensions and front porch. Existing single storey building to be demolished. For private use.	Refused	25.06.2010

4. Consultations

Environmental Health

4.1 Pollution and Environmental Control ask that the following is conditioned

- **Demolition & Construction**

In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Pollution and Environmental Control recommends that the following guidelines are followed. Adherence to this will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control.

Best Practice for Demolition 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)

Prior to the commencement of any demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Pollution and Environmental Control.

- **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 5228:1984.
- 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.

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

Principal Tree & Landscape Officer

- 4.2 As stated in previous comments should consent be likely to be granted then details of the indicative landscaping shown on the indicative site layout plan should be secured by condition.
- 4.3 It appears that the gardens abutting Barrack Street are large enough to allow new tree planting that would help to retain the rural character of the area and improve the appearance of the public realm.

Anglian Water Services Ltd

- 4.4 No comment received.

Essex Wildlife Trust

- 4.5 No comment received.

Natural England

- 4.6 No objection.

Policy Section

- 4.7 **The spatial strategy in the 2012 Draft of the emerging Local Plan originally sought to distribute growth in a fair and proportionate way across all the settlements in the district by expecting all settlements to increase by 6%. However, this approach and applying the 6% as a cap to development attracted significant objections. The revised draft of the Local Plan will continue to identify Bradfield as a 'Smaller Rural Settlement' (due to its limited access to shops, services and facilities compared to more sustainable settlements elsewhere in the district) where growth will be limited to small-scale infill development (i.e. no single proposal greater than 10 dwellings unless supported by the Parish Council and where it will achieve certain local benefits) within defined settlement development boundaries but there will no longer be a 6% cap on the amount of development that could take place.**

Environmental Health

- 4.8 Having read the application and the detailed Contaminated Land survey, I can advise that the Pollution Team have no comments to make on this application.

Principal Tree & Landscape Officer

- 4.9 There are several trees on the land although none have such visual amenity value that they merit protection by means of a Tree Preservation Order
- 4.10 Existing boundary hedgerows will help to screen the development from adjacent land and it appears from the indicative site layout that they will be retained. They do not fall within the scope of legislation under which they merit formal legal protection.
- 4.11 The site layout appears to show the removal of the boundary hedgerow adjacent to Barrack Street. It would be desirable for this hedgerow to be retained ' if it is to be removed then the landscaping scheme should address the need to carry out new planting to both screen and enhance the appearance of the development from this aspect.
- 4.12 New tree planting could be carried out on this boundary as it would maintain the existing natural appearance of the local environs and if consent were to be granted would significantly enhance the appearance of the public realm

4.13 Should consent be likely to be granted then details of the indicative landscaping shown on the indicative site layout plan should be secured as a reserved matter.

4.14 **Amended after site visit conducted on 26/09/2014**

In order to more closely assess the health, condition and amenity value of three trees situated close to the existing dwelling, at the above location, a further site visit was made to inspect them

4.15 **The trees are: - a Thuya, a variegated Holly and a Cherry.**

The Thuya is approximately 10 -12m tall and is in reasonable condition. The canopy is showing signs of dieback and the drooping habit of the branches is typical of this species. There is a large wound at the base of the tree where a co-dominant stem has been removed. At the present time there is little sign of decay in the old pruning wound.

4.16 **Only the top third of this tree can be seen from the highway when walking past the existing vehicular access to the land. The existing boundary vegetation screens the tree from view from Barrack Street.**

4.17 **The variegated Holly approximately 8 -10m tall and is poorly formed as the main stem divides into three just above ground level - although its overall appearance is good. It is partially screened from view by the Thuya and the degree to which it can be seen from the highway is therefore commensurately less than the Thuya.**

4.18 **The cherry is the most important tree, of the three, and is a well formed and healthy specimen. It has no significant defects apart from an area of occluded bark at about 1.5m from ground level where the main stem divides into two. Although such a defect is often highlighted as a potential weakness it is my view that, in this instance, the tree is not particularly unstable because of this defect. The tree is fully mature and will not significantly increase in size.**

4.19 **As with the Thuya and the variegated Holly the Cherry can only be seen from a 10m wide section of highway adjacent to the vehicular access.**

4.20 **All the trees set back into the main body of the application site and are approximately 30m from the highway (Barrack Street).**

4.21 **In terms of the importance of the trees, the contribution that they make to the appearance of the area and their suitability for retention and/or protection by means of a Tree Preservation order (TPO) it is important to refer to the guidance provided by the Secretary of State. In essence they state that 'TPO's should be made to protect selected trees and woodlands if their removal would have a significant impact on the appearance of the local environment and its enjoyment by the public' they go on to say that ' the trees, or at least part of them, should therefore normally be visible from a public place'.**

4.22 **In this case the existing boundary vegetation almost completely screens the trees from view from Barrack Street. This means that they have little, if any, visual amenity value. It is acknowledged that the trees are generally in good condition however they are not exceptional and therefore do not merit protection for their 'intrinsic' value as trees. Because they are almost completely screened from view from a public place their removal would not have a significant impact on the local environment or its**

enjoyment by the public. For these reason the trees do merit protection by means of a TPO.

- 4.23 As part of the assessment of the impact of the development proposal on the character and appearance of the area account should be taken of the potential to secure new landscaping as part of the development proposal. Particular attention should be given to the treatment of the boundary with Barrack Street aiming retain or secure the replacement of the hedgerow adjacent to barrack Street and the potential to plant new trees that will feature prominently in the public realm.

Essex County Council Highways

- 4.24 All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all purpose access) will be subject to the Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway by the ECC.

- 4.25 The Highway Authority raises no objection subject to a number of highways conditions.

- 4.26 **Revised comments - AMENDED PLANS RECEIVED 21 JULY 2014.**

The Highway Authority raises no objection subject to a number of highways conditions.

- 4.27 **Final Comments - AMENDED PLANS RECEIVED 30/09/2014**

The Highway Authority raises no objection subject to:- All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway by the ECC. The Highway Authority raises no objection subject to:-

- 1. Prior to the occupation of any of the proposed dwellings, the proposed access and site layout shall be constructed in complete and precise accord with the details shown in Drawing Numbered 4732-PL-02 Revision C and 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, 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 occupation of the proposed development, the proposed vehicular accesses to Plots 1 & 2 shall be constructed at right angles to the highway boundary and to a width of 3.7m maximum and 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 vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.**

3. Prior to any of the proposed accesses being brought into use, a 1.5m. x 1.5m. pedestrian visibility splay, relative to the highway boundary, shall be provided on both sides of that access and shall be maintained in perpetuity free from obstruction exceeding a height of 600mm. These splays must not form part of the vehicular surface of the access. Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and pedestrians 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.
4. Prior to the proposed accesses onto Barrack Street 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.
5. No unbound materials shall be used in the surface treatment of any of the proposed vehicular accesses within 6m of the highway boundary or proposed 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.
6. Prior to commencement of the proposed development, a vehicular turning facility for motor cars serving Plots 1 & 2 and 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.
7. Prior to commencement of the proposed development, a vehicular turning facility for service and delivery vehicles of at least size 3 dimensions and 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.
8. Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority. Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6 of the Highway Authority's Development Management Policies February 2011.
9. The carriageway(s) of the proposed estate road(s) shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road(s). The

carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling, prior to occupation has a properly consolidated and surfaced carriageway and footway between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any up-stands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and paths in front of each dwelling shall be completed with the final surfacing within twelve months from the first occupation of such dwelling. Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6 of the Highway Authority's Development Management Policies February 2011.

10. All off street parking facilities shall be provided in accord with 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.
11. Prior to commencement of the proposed development, details of the provision for storage of bicycles for each dwelling, 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.
12. Any proposed new boundary hedges shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays. Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.
13. Prior to occupation of the proposed development, a (communal) bin/refuse collection point shall be provided within 25m of the proposed highway boundary and additionally clear of all visibility splays at accesses. Reason: To minimise the length of time a refuse vehicle is required to wait within and cause obstruction 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.
14. No development shall take place, including any works of 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 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.
15. Prior to the occupation of the proposed development the applicant shall provide a 2m wide kerbed walkable grass verge across the sites frontage to

Barrack Street except for the proposed vehicular accesses. Reason: To make adequate provision for the additional pedestrian traffic generated as a result of the proposed development, in the interests of highway safety and Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

- 16. Prior to the occupation of the proposed development the applicant shall extend the carriageway width to a minimum of 4.8m across the sites frontage to Barrack Street as shown drawing number 4732-PL-02 Revision C. Details of any adjustments in levels, kerbing, the provision of drainage and any accommodation works necessary shall be submitted to and agreed in writing by the Local Planning Authority. All works shall be carried out in complete accordance with the agreed details. Reason: To make adequate provision for the additional traffic generated as a result of the proposed development, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.**

Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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 or by post to: SMO1 Essex Highways Colchester Highways Depot, 910 The Crescent, Colchester. CO4 9QQ.

5. Representations

- 5.1 Bradfield Parish Council objects to the proposed scheme on a number of grounds (officers comments in brackets):
- be gross overdevelopment (considered in officers report),
 - would compromise the amenity of neighbouring properties (considered in officers report),
 - would have an unacceptable impact on the road infrastructure (no highways objection)
 - would destroy the peaceful and rural nature of the area (considered in officers report)
- 5.2 In addition the footpath proposal appears to be in conflict with the proposed (ECC) footpath in Steam Mill Road. - (The footpath development referred to falls outside of the application site and for this reason does not form a material planning consideration with regard to the current scheme)
- 5.3 Further, a comment was received which stated that, "We wish to point out that, despite the statement that all affected neighbouring residents have been contacted and advised of this application, we are aware of a number of affected residents who have not in fact been contacted, and we ask for a detailed explanation." - (It is correct that when the application was submitted initially some residents were not notified in accordance with the Council's statutory duty. Additional letters allowing for the required 21 day notification period was subsequently sent out to all residents in accordance with the Council's neighbour notification procedures. During the application process amended plans were submitted by the applicant at which time another round of neighbour letters were sent out allowing 14 days to comment. The officer's recommendation has only been made after the expiration of the notification deadline. In addition to the neighbour letters a site notice was also posted at the site.

5.4 One letter of support has been received with regard to the proposed development.

The previous committee report advised that 18 letters were received. During debate it was suggested that a greater number of letters had been received objecting to the application.

The reference to 18 letters of objection related to those letters received in response to the re-consultation following the submission of amended plans. These responses were reported as they related to the up-to-date proposals.

However, a further 14 letters of objection had been received in response to the original proposals that were superseded by amendments.

As previously reported the matters raised in these letters can be summarised as follows (officer's comments in brackets):

- loss of privacy (see officer's report)
- overdevelopment of the site (see officer's report)
- no further development required for Bradfield (see officer's report)
- highways safety concerns (see officers report)
- out of character with the area (see officer's report)
- works at junction of Barrack Street and Steam Mill Road (whilst mentioned within the supporting documentation, falls outside the site boundaries for this development, does not form a material consideration for the current scheme)
- new access road would cause traffic noise, decrease air quality and restrict movement within Barrack Street (no highways or environmental health objection to the scheme)
- backland development (site fronts onto and takes access from Barrack Street and does not represent backland development)
- would set a precedent for further development to the south east of the site (this land falls outside any settlement development boundaries and each application would in any case need to be considered on its own merits)
- impact on wildlife
- requirements of Policy SD4 or the Draft Local Plan (see officer's report)

6. Assessment

Site Context

- 6.1 The site lies within the revised Settlement Development Boundary of the village of Bradfield as identified within the Tendring District Local Plan Proposed Submission Draft (2012), but the site is adjacent to but outside the village development boundary as defined within the Tendring District Local Plan (2007). It comprises a single cottage, its garden, associated outbuildings and a disused paddock and ménage. The residential property is currently occupied by the landowner and the associated buildings are used for storage and personal business use. None of the buildings on the site are listed and all are in a generally poor state of repair.
- 6.2 The site fronts onto Barrack Street, approximately 130m south of its junction with Heath Road. It is largely shielded from external views from all directions by an established hedgerow which lines all boundaries.
- 6.3 Eight dwellings occupy plots directly opposite the site on Barrack Street. These comprise a modern detached bungalow, an older detached house, a row of three traditional terraced cottages and two further semi-detached houses. The latter two dwellings adopt a more

modern appearance and occupy corner plots where Barrack Street turns abruptly west to join up with Ellis Road and Cansey Lane.

- 6.4 Dwellings of mixed character line both sides of Barrack Street further north between the application site and the junction with Heath Road. Modern brick or rendered bungalows, chalets, semi-detached and detached houses intermingle with more traditional rendered cottages. Attractive front gardens, driveways and hedgerows break up the street scene and engender a semi-rural character.
- 6.5 Gardens associated with neighbouring dwellings on Barrack Street and Heath Road adjoin the northern and eastern boundaries of the site. To the south of the site is Lott's Lane, a Public Right of Way connecting to Cansey Lane, beyond which is a paddock enclosed by thick hedgerows. The tall

Proposal

- 6.6 The planning statement submitted in support of the application sets out that the current application seeks full planning permission for the demolition of existing outbuildings, the development of nine new dwellings with associated access and parking and the retention, alteration and refurbishment of the existing thatched cottage. The proposed dwellings would constitute a mixture of three, four and five bedroom private family houses.
- 6.7 The site will be landscaped with new trees and planting assisting with the assimilation of the overall scheme into the semi-rural location of the site whilst also reflecting the surrounding irregular pattern of development. Retained mature hedgerows on the majority of the boundaries of the site will provide a physical buffer to adjacent residential dwellings and land uses, ensuring that the amenity of existing dwellings will be protected.
- 6.8 The main planning considerations are:
- National Planning Policy Considerations
 - Suitability of the site for housing
 - Character and appearance
 - Neighbouring amenity
 - Highway Safety
 - Site Contamination
 - Flood Risk and Drainage
 - Ecology
 - Planning Obligations

National Planning Policy Considerations

- 6.9 The National Planning Policy Framework (NPPF) contains the Government's planning policies for England and sets out how these are expected to be applied. Planning law continues to require that applications for planning permission are determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 6.10 The policies contained within the NPPF are a material consideration and should be taken into account for decision-making purposes. The National Planning Policy Framework states 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.
- 6.11 The NPPF, at Para 56, states that The Government attaches great importance to the design of the built environment and that good design is a key aspect of sustainable

development, indivisible from good planning, and should contribute positively to making places better for people.

- 6.12 In relation to highway matters the NPPF advises that, amongst other things, safe and suitable access to the site can be achieved for all people. Paragraph 58 states that local planning authorities should be responsive to local circumstances and plan housing development to reflect local needs.
- 6.13 Paragraph 215 of the NPPF states that for local plan policies which were adopted in accordance with the 1990 Town and Country Planning Act due weight should be given in accordance with their degree of consistency with the NPPF. For housing development, central government policy set out in the NPPF seeks to achieve sustainable development, making more efficient use of 'Brownfield' sites.

Suitability of the site for housing

- 6.14 The site lies within the revised Settlement Development Boundary of the village of Bradfield as identified within the Tendring District Local Plan Proposed Submission Draft (2012), but the site is adjacent to but outside the village development boundary as defined within the Tendring District Local Plan, 2007 which aims to restrict new development to the most sustainable sites. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.
- 6.15 Bradfield is identified as a village within Policy QL1 of the Tendring District Local Plan (2007) and on this basis it is considered that a modest amount of growth can be supported. Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.
- 6.16 Chapter 6 of the National Planning Policy Framework (NPPF) has as an objective the delivery of a wide choice of high quality homes. In order to facilitate this objective paragraph 49 of the NPPF sets out housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 6.17 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers considered that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF. It should also be noted that whilst the Council has published the Tendring District Local Plan Proposed Submission Draft (2012), the document is yet to be submitted to the Secretary of State and formal adoption cannot take place before it has been examined, consulted on and found to be sound and until that time the relevant emerging policies may possibly be subject to change. When considered in relation to paragraph 216 of the Framework they may be afforded only limited weight.
- 6.18 This view has also been supported by the Planning Inspectorate in a number of recent appeal decisions for similar outline schemes. One in particular in Little Clacton, concluded that the fact that a site is outside the settlement boundary is not sufficient reason on its own to refuse planning permission. The Inspectors have then gone on to assess the proposals primarily against the presumption in favour of sustainable development as contained within the NPPF. As the Council does not have an up to date local plan or sufficient housing land supply the Inspectors have found in favour of the developments even where they relate to single dwellings which on their own do not significantly contribute to the Council's housing need. This is a material consideration in the determination of this application.

- 6.19 In addition, the most recent appeal decisions have been allowed even where developments have been located outside of the settlement boundaries provided that they also comply with the NPPF and represent sustainable development.
- 6.20 It is further considered that the development of this site with 9 new dwellings will contribute to the Council's housing need which is a material consideration that has been given significant weight in recent appeals that have been allowed.
- 6.21 Based on the above it is considered that, in the absence of up-to-date policies, development proposals cannot be refused solely on the basis that a site is outside the development boundary. Paragraph 14 of the NPPF supports this view when it sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 6.22 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight. As a result the current scheme falls to be considered against the 3 dimensions of 'sustainable development',
- economic,
 - social and
 - environmental roles.
- 6.23 The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary.
- 6.24 Officers consider that the proposal would contribute economically to the area and so meets the economic arm of sustainable development.
- 6.25 In terms of the social role, the site is within close proximity of some community services. While Bradfield is also on a bus route and there are bus stops in Heath Road with services to Colchester.
- 6.26 In addition it is noted that Bradfield has been identified as one of a number of 'Smaller Rural Settlements' within the district in Policy SD4 of the Tendring District Local Plan Proposed Submission Draft (2012). The preamble to this policy sets out that these 'smaller rural settlements' could support small clusters of new residential properties, like that being proposed, abutting existing settlements as long as they integrate well with the surrounding area. Whilst the policy has limited weight at this stage, it shows that there is an appetite for smaller scale residential schemes within these areas.
- 6.27 Overall officers consider that the application site performs reasonably in terms of the social role within the definition of sustainability.
- 6.28 It is acknowledged that, in terms of settlement shape and form, development in this location is unlikely to have a significantly detrimental impact (subject to consideration against other Local Plan policies) as the site immediately adjoins the Settlement Development Boundary in the 2012 Draft Local Plan with a number of residential dwellings to the north, north east and west of the site.

Character and appearance

- 6.29 As has been highlighted in a number of the letters of objections received Barrack Street is a quiet road giving access to a loose form of development which constitutes a mixture of residential dwelling types and finishes in a semi-rural area.

- 6.30 The current scheme proposes the construction of a semi-detached pair of properties (plots 1 & 2) as well as a detached dwelling (plot 9) to the front of the site facing onto Barrack Street roughly in line with the existing pattern of development along this side of the road. These properties would be of a scale, design and layout that would reflect the character and appearance of the area. In addition to these new dwellings the existing cottage would be retained, but would be extended in order to increase its size and bring it more in line with modern space requirements for family housing.
- 6.31 The NPPF at paragraph 56 sets out that The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning. In addition to this advice paragraph 60 of the NPPF makes it clear that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.
- 6.32 The remainder of the scheme would provide 6 new dwellings set in spacious landscaped plots and would be accessed via a new access from Barrack Street. From the detailed drawings submitted officers conclude that the dwellings proposed would reflect the scale, bulk and mass of other residential properties in the area.
- 6.33 The properties would comply with the Councils space standards in terms of amenity space, separation distances and parking provision. In addition the overall density for the site is low, at approximately 13 dwellings per hectare including the retained cottage which reflects the semi-rural location of the site and the pattern of development in the surrounding area. On this basis officers consider that the scheme does not represent overdevelopment of the site as indicated in some of the letters of objection received.
- 6.34 It is further considered that given the generous spacing between dwellings, the large garden sizes, informal nature of the internal road layout, the retention of existing landscaping and the addition of new landscaping not only within the site but also on the frontage with Barrack Street would result in a scheme that would not materially detract from the semi-rural character of the area.
- 6.35 In addition to the fact that the proposed properties would not materially detract from the character of the area officers further consider that it would be reasonable to attach condition to any approval requiring the submission of details of materials to be used in the external finishing of the properties to ensure that they further contribute to the immediate area.
- 6.36 Having regard to the above it is concluded that the proposed development would comply with requirements of the NPPF set out above as well as the aims and objectives of relevant Local Plan Policies.

Neighbouring amenity

- 6.37 Plots 1 and 2 would be constructed adjacent to the property at Ankedene. The property at plot 1 would be the most likely to impact on this immediate neighbour. It is noted that the property at plot 1 including its single storey garage to the side would be set off the boundary with the neighbour at Ankedene. The single storey garage results in the main bulk of the principle dwelling being set even further from the property at Ankedene. On this basis it is considered that whilst the property at plot 1 would be set further back into its site it would not result in a loss of light or outlook to this immediate neighbour.
- 6.38 The properties at plot 1 and 2 would be two storey in height and would contain habitable accommodation at first floor which brings with it the introduction of window openings to serve areas like bedrooms or bathrooms. Whilst first floor windows at the new properties

would allow some views over the rear garden area of this immediate neighbour it would be limited to the bottom sections of the garden and would be no different from the levels of overlooking currently possible from the existing neighbour to the north.

- 6.39 Whilst objections have been received from residents occupying properties facing onto Heath Road with regard to loss of privacy in their garden areas it is the case that the proposed development has been sited to maximise the screening potential of existing hedgerows and allow generous distance from existing properties to avoid any overlooking. The scheme meets and exceeds the minimum back-to-back and back-to-boundary distances normally required for new residential developments.
- 6.40 It is further noted that some concerns have been expressed by local residents that the proposed scheme would result in an increase in noise and disturbance and poor air quality. Whilst it is agreed that there would be some increase in noise levels during the construction phase this would be for a limited period of time and a reason for refusal on this basis could not be substantiated. Officers do not consider that the introduction of additional vehicles associated with the new scheme would result in material harm to residential amenity such that would make the development unacceptable.
- 6.41 With regard to comments on air quality officers consider that the level of vehicle movements likely to be generated by this scheme would not decrease air quality to unacceptable levels. In addition it is noted that the Council's Environmental Health Department raised no objection to the scheme as proposed.
- 6.42 Based on the above it is concluded that the proposed development would not detract from the amenities of any of the immediate neighbours nor those some distance from the site as a result of loss of privacy, outlook, noise or air quality compliant with the aims and objectives of the NPPF and Local Plan Policies.

Highways

- 6.43 **At the Planning Committee Meeting held on 16th September 2014 members deferred the current item to allow officers to obtain further information with regard to the proposed footpath works at Steam Mill Road.**
- 6.44 **The proposed footpath works at Steam Mill Road**
- Upon further investigation officers found that these footpath works were initiated and will be carried out by Essex County Council in consultation with the Tendring Local Highways Panel and Bradfield Parish Council. These works stand independently as an Essex County Council initiative and are in no way linked to the proposed development at The Orchards, Barrack Street before members.**
- 6.45 **Improvements to the junction of Steam Mill Road and Barrack Street**
- The highways officer has also confirmed that the proposed development does not result in the need for improvement works to the Barrack Street/Steam Mill Road junction. The highway authority does not therefore recommend that a condition is attached to any grant of planning permission requiring improvements. The existing junction is expected to maintain function without severe congestion, obstruction or causing danger.**
- Therefore determination of the planning application can proceed without further consideration of the proposed footpath works to Steam Mill Road. Those works and the proposed development can take place independent of each other.**

Initial discussions with the developer and agent identified that improvements to the junction of Barrack Street and Steam Mill Road were achievable but without them would not render the impact of the proposed development as severe. The improvements (junction realignment) were considered as desirable by the Highway Authority but not essential.

The existing junction is expected to maintain function without severe congestion, obstruction or causing conditions of danger.

Based on the above advice officers conclude that as works to the junction with Barrack Street and Stream Mill Road will not be carried out/required to make the current scheme before members acceptable there would consequently be no impact on the footpath works that are being proposed by Essex County Council.

- 6.46 A shared private drive is proposed to provide the primary means of access from Barrack Street while plots one and two will have individual driveways serving the respective properties. The applicants have indicated that the shared drive will be a minimum 4.8m width and be for pedestrian and vehicle usage while a type Three turning head will be provided.
- 6.47 All servicing requirements, including refuse collection and access by emergency vehicles, will be wholly accommodated within the site.
- 6.48 The applicants have indicated that vehicle parking provision will be made in accordance with Essex Planning Officers Association Parking Standards for Essex (2009). All 10 dwellings have driveway and garage provision to avoid on street parking which could cause highway obstruction and undermine pedestrian space. These requirements would be squired by condition.
- 6.49 Part of the frontage of the site would be utilised to widen Barrack Street and to provide a new 2m wide grass verge in front of a realigned and replanted hedgerow. This would result in improved accessibility while maintaining the semirural character of Barrack Street.
- 6.50 Having consideration to the above information, there are no overriding access, transport or highway reasons why the proposed scheme should not be approved and this is reflected by the fact that Essex County Council Highways raised no objection to the scheme subject to a number of controlling conditions.

Site Contamination

- 6.51 In support of the scheme a Phase One Contamination Report was submitted in order to establish the risk of contamination and identify any issues relating to ground conditions which would need to be addressed during the construction of the scheme. This report concluded that there was a very low risk of the site being contaminated given its previous use for grazing and agricultural purposes. This conclusion is supported by a comment received from the Council's Pollution Team who raised no objection to the proposal.

Flood risk and drainage

- 6.52 The site is located within 'Flood Zone 1' as defined by the Environment Agency and as such is at low risk of flooding. Taking account of this designation and the modest surface area of the site (at less than one hectare) a formal flood risk assessment is not required to support the planning application.

Ecology

- 6.53 A Phase 1 habitat Survey was completed for the site. This survey concluded that further surveys were required in terms of bats and reptiles. On this basis the applicants submitted additional surveys which consider these species. These surveys concluded as follows:

Bats

- 6.54 No roosting bats, or bats displaying roosting behaviour, were identified during the surveys. Therefore, it is considered that works can commence with negligible risk to roosting bats.
- 6.55 Low levels of commuting and foraging were recorded. Due to the low numbers of bats recorded at the site, and the abundance of similar habitat within the surrounding area, it is unlikely that foraging bats will be negatively impacted by the proposed development. The retention of trees and hedgerows at the boundaries, and replacement of scattered trees and hedgerows, through planting within the new development, would maintain the value of the site for foraging and commuting bats post development.
- 6.56 If works do not commence within 12 months of the date of these surveys, updated active season surveys should be undertaken pre-demolition to ensure that bats have not started to use the structures, prior to the start of works. These surveys could take the form of a pre-demolition dawn survey.

Reptiles

- 6.57 No reptiles were recorded during the survey, and it was considered unlikely that reptiles were using the site or would be harmed or otherwise impacted by the proposed development.

Amphibians

- 6.58 Due to the poor quality of terrestrial habitat within the site and the poor suitability of a surveyed pond within 500m, it is unlikely that amphibians would be present or impacted by the development.

Birds

- 6.59 The habitat survey concluded that any trees or hedgerows proposed for retention should be suitably protected from harm during the construction works following British Standard: BS5837 (2012) while site clearance and works proposed to any buildings, trees or hedges should be conducted outside the main bird breeding season (which is March until September).

Invertebrates

- 6.60 It was found that habitats within the site were not considered of suitable structure or diversity to support a significant assemblage of rare or protected invertebrates. Further, with the abundance of similar habitats within the surrounding area, it was not considered that the local conservation status invertebrates would be significantly impacted by the proposed development. No further survey is necessary.

Hedgehogs, hares and badgers

- 6.61 No evidence indicating the presence of either species was recorded. The site was not considered suitable for sett creation due to the lack of suitable cover and regular disturbance by horses and the current occupants of the cottage.

- 6.62 In addition the habitat survey found that the site was not suitable to support brown hare and with arable land dominating the wider countryside, it was considered unlikely that this species would be significantly impacted.

Dormice

- 6.63 The site was not considered suitable to support dormice due to the lack of suitable woodland structure and the lack of species diversity within the hedgerows, which were dominated by hawthorn. However, small areas of woodlands to the west and north west and Milgrove Wood to the north east of the site provided potential habitat for the species. These woodlands are however not linked to the site and will be unaffected by the development.

Planning Obligations

- 6.64 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.
- 6.65 A signed Unilateral Undertaking has been received with regard to the above requirement and it is considered that the application is therefore in accordance with policy COM6.

Trees & Landscape

- 6.66 There are several trees on the land although none have such visual amenity value that they merit protection by means of a Tree Preservation Order Existing boundary hedgerows will help to screen the development from adjacent land and it appears from the indicative site layout that they will be retained. They do not fall within the scope of legislation under which they merit formal legal protection.
- 6.67 The site layout appears to show the removal of the boundary hedgerow adjacent to Barrack Street. It would be desirable for this hedgerow to be retained - if it is to be removed then the landscaping scheme should address the need to carry out new planting to both screen and enhance the appearance of the development from this aspect.
- 6.68 New tree planting could be carried out on this boundary as it would maintain the existing natural appearance of the local environs and if consent were to be granted would significantly enhance the appearance of the public realm.
- 6.69 In accordance with members request at the last Planning Committee Meeting held on 16th September 2014 officers conducted a further site visit on 26th September 2014 in order to more closely assess the health, condition and amenity value of three trees situated close to the existing dwelling, at the above location.

The trees are: - a Thuja, a variegated Holly and a Cherry.

Further assessment of the trees, their condition and contribution was undertaken following the 16th September Planning Committee the summary of the findings are detailed in this report at paragraphs 4.14 – 4.23.

The conclusion of the assessment is that the existing boundary vegetation almost completely screens the trees from view from Barrack Street. This means that they have little, if any, visual amenity value. It is acknowledged that the trees are generally in good condition however they are not exceptional and therefore do not merit

protection for their 'intrinsic' value as trees. Because they are almost completely screened from view from a public place their removal would not have a significant impact on the local environment or its enjoyment by the public. For these reason the trees do merit protection by means of a TPO.

Conclusion

- 6.70 Based on the above assessment it is concluded that in line with the requirements of the NPPF and in the absence of any adverse impacts that would significantly and demonstrably outweigh the benefits of the proposed scheme approval should be recommended.

Background Papers

None.