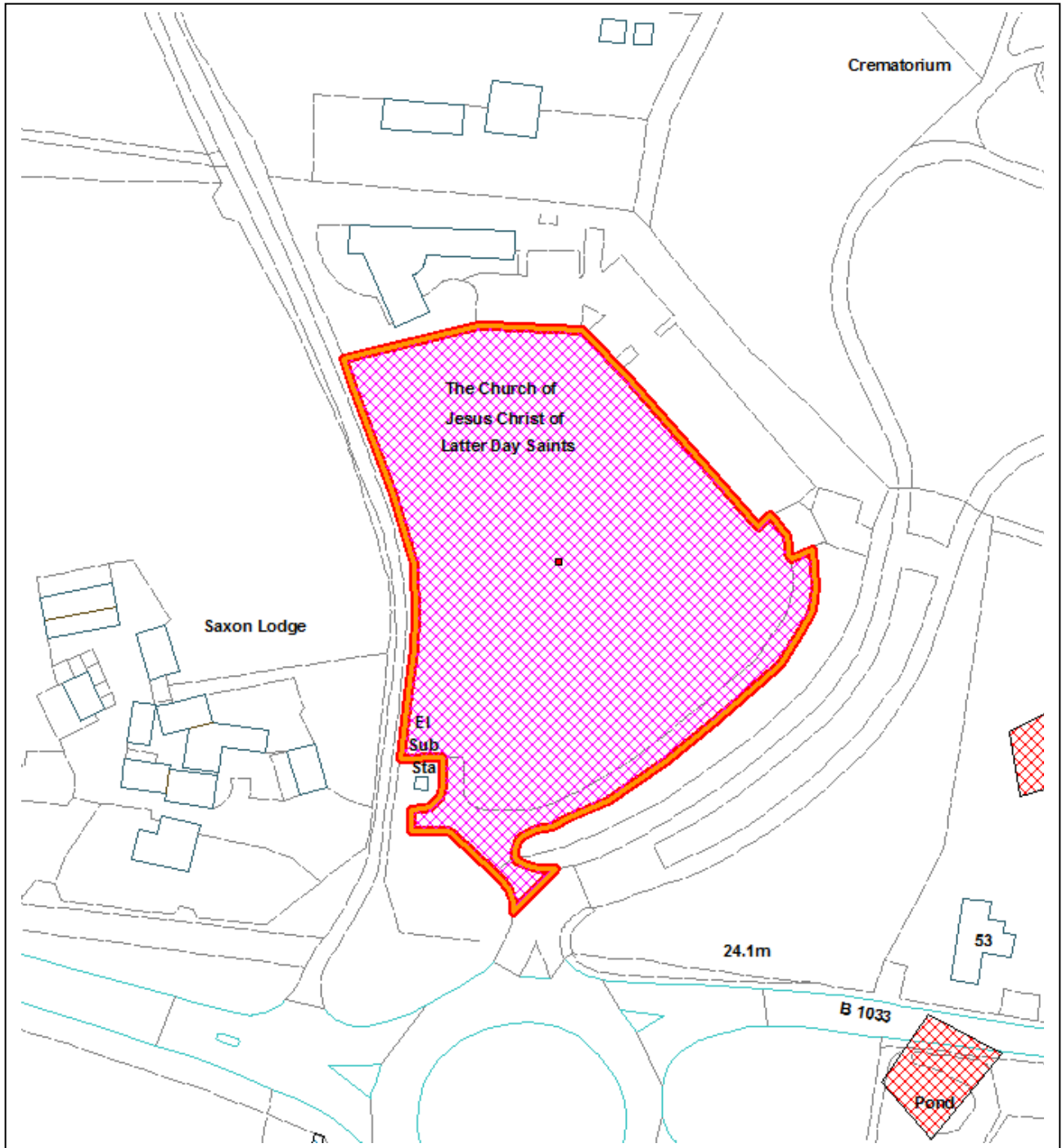


PLANNING COMMITTEE

18 MAY 2016

REPORT OF THE HEAD OF PLANNING

A.4 PLANNING APPLICATION – 16/00183/OUT - LAND WEST OF RECTORY ROAD, WEELEY HEATH, CO16 9AX



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Application:	16/00182/OUT	Town / Parish: Weeley Parish Council
Applicant:	St Osyth Beach Estate Ltd	
Address:	Land South of The Crematorium, Colchester Road, Weeley, CO16 9AX	
Development:	Residential development comprising of up to 9 dwellings.	

1. Executive Summary

- 1.1 This application has been referred to Planning Committee at the request of Cllr Bray and also represents a significant departure from the Local Plan.
- 1.2 This application seeks outline planning permission with all matters reserved for the construction of 9 no. dwellings with associated parking and garaging.
- 1.3 The application site is situated on the eastern side of Rectory Road and to the south of Mill Lane outside of, but opposite to, the defined settlement development boundary of Weeley Heath as set out in the Tendring District Local Plan (2007) and the Draft Plan (Tendring District Local Plan Proposed Submission Draft 2012).
- 1.4 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.
- 1.5 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.
- 1.6 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 The site is considered to be located in a socially sustainable location and would meet the economic strand of sustainability. In respect of the environmental impact, subject to the detailed design being acceptable, it is considered that the site could be developed without raising any significant adverse impacts in respect of; the character and appearance of the area, residential amenity, highway safety and biodiversity considerations.
- 1.8 The development attracts financial contributions in respect of public open space improvements in the locality and affordable housing provision. A unilateral undertaking is being drafted to secure these contributions.

Recommendation: Approve

That the Head of Planning be authorised to grant planning permission for the development subject to:-

- a) Within 3 (three) months of the date of the Committee's resolution to approve, the completion of a legal agreement/unilateral undertaking under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters

(where relevant):

- Affordable Housing contribution, and;
- Contribution toward play provision.

b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning in their discretion considers appropriate).

(i) - Conditions:

- 1) Time Limit – Outline
- 2) Time Limit – Submission of Reserved Matters
- 3) No Development until Reserved Matters (access, appearance, layout, landscaping and scale) submitted
- 4) Materials
- 5) Boundary treatments
- 6) Submission of hard/soft landscaping scheme
- 7) Implementation of landscaping scheme
- 8) Access Details (priority junction of 6.0m in width, straight for the first 12m within the site and provided with vehicular visibility splays of 33m north easterly by 2.4m as measured along, from and along the nearside edge of the carriageway, provided on the north easterly side of the centre line of the access)
- 9) Single access to be 3.7m in width and shared accesses 5.5m
- 10) No unbound materials within 6m of carriageway
- 11) Each internal estate road junction shall be provided with a clear to ground level visibility splay with dimensions of 25m by 2.4m by 25m on both sides
- 12) All footways 2m in width
- 13) All carriageways 5.5m in width between kerbs or 6m where vehicular access taken without kerbing
- 14) Off-street parking in accordance with current parking standards
- 15) Garages being set back 6m from highway
- 16) Boundary hedge being setback 1m from highway and 1m behind visibility splays
- 17) A vehicular turning facility for service and delivery vehicles of at least size 3 dimensions and of a design being provided
- 18) Pedestrian footways being provided to link to those to east in Colchester Road
- 19) Details of communal refuse store provided
- 20) Timing of vegetation clearance
- 21) Lighting details
- 22) Biodiversity mitigation and enhancement provision
- 23) Accordance with tree/hedge protection plan
- 24) Removal of PD rights for fencing, walls and means of enclosure
- 25) Noise attenuation strategy

2. Planning Policy

National Policy

National Planning Policy Framework (2012)

National Planning Practice Guidance (2014)

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
HG4 Affordable Housing in New Developments
HG6 Dwelling Size and Type
HG9 Private Amenity Space
HG14 Side Isolation
COM6 Provision of Recreational Open Space for New Residential Development
EN1 Landscape Character
EN6 Biodiversity
TR1A Development Affecting Highways
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
SD2 Urban 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
PEO10 Council Housing
PEO22 Green Infrastructure in New Residential Development

PLA4 Nature Conservation and Geo-Diversity

PLA5 The Countryside Landscape

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

3. Relevant Planning History

16/00182/OUT	Residential development comprising of up to 9 dwellings.	Current
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4. Consultations

Asset Management Team	No comments received.
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Principal Tree & Landscape Officer	The main body of the land is set to grass and is not populated with trees although there established and young, newly planted trees on, or close to, site boundaries.
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The site layout does not identify the need to remove of any important trees or other significant vegetation other than a small scrubby group of Hawthorn and Oak by the main access point to the land. The removal of this vegetation will not have an adverse impact on the character or appearance of the area and the Tree Survey and Report adequately demonstrates the way in which retained trees and hedgerows will be protected for the duration of the construction phase of any planning permission that may be granted.

The applicant has submitted a Landscaped Strategy that shows the positions of new trees to be planted as part of the development proposal; however it does not include details relating to species and specification. Should planning permission be granted then a detailed soft landscaping plan and specification for the indicative scheme should be secured.

Essex County Council Highways	From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:
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- The proposed connection to the existing carriageway shall be a formal priority junction of 6.0m in width, straight for the first 12m within the site and shall be provided with vehicular visibility splays of 33m north easterly by 2.4m as measured along, from and along the nearside edge of the carriageway, shall be provided on the north easterly side of the centre line of the access and shall be maintained in perpetuity free from obstruction clear to ground.

- Prior to first occupation of the proposed development, each individual proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7m and each shared vehicular access shall be constructed at right angles to the highway boundary and to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the

footway/highway verge to the specifications of the Highway Authority.

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

- Each internal estate road junction shall be provided with a clear to ground level visibility splay with dimensions of 25m by 2.4m by 25m on both sides. Such visibility splays shall be provided before the road is first used by vehicular traffic and shall be retained free from obstruction clear to ground.

- All footways should be provided at no less than 2.0m in width.

- All carriageways should be provided at 5.5m between kerbs or 6.0m where vehicular access is taken but without kerbing.

- All off street car parking shall be in precise accord with the details contained within the current Parking Standards.

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

- Any new boundary hedge shall be planted a minimum of 1m behind any visibility splays at accesses or highway boundary and shall be maintained clear of the limits of the highway in perpetuity.

- 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 in perpetuity.

- The developer shall provide pedestrian footways that shall connect from the proposed development site to the existing footways on Colchester Road.

Natural England

No objections

Essex Wildlife Trust

No comments received

5. Representations

5.1 Weeley Parish Council objects;

- The entrance to this site is unsafe. it is off the Crematorium entrance road where there have been two accidents in the space of a week. The aspirational houses proposed for this site will naturally lead to a significant increase in car traffic in the immediate vicinity giving rise to safety concerns.
- Weeley Parish Council is also concerned about the location of this site in relation to the well-established kennel and cattery nearby and notes that there is no mention of this business in any of the documentation.
- Local infrastructure is already under significant pressure. The historical and rural environment of Weeley Heath should be protected.

5.2 7 letters of objection have been received. The points raised are summarised below:

- Adverse impact upon the open countryside.
- Site is located outside of the development boundary.
- Adverse impact on highway safety due to increase of traffic on Bentley Road.
- Pressure on local infrastructure (school places, health facilities).
- Site is not sustainable.
- Recent unacceptable increase in number of dwellings in Weeley Heath which is a rural area.
- Access unsafe and already serves Church and Crematorium and national speed limit in this location.
- Proximity to licensed dog boarding kennels and cattery. Potential for noise complaints.

6. **Assessment**

The main planning considerations are:

- Site Context;
- Proposal;
- Principle of Development;
- Character and Appearance;
- Neighbouring Amenity;
- Highway Considerations;
- Biodiversity, and;
- Legal Obligations.

Site Context

- 6.1 The application site is located on the northern side of Colchester Road to the west of the village of the Weeley. The site measure 0.68 hectares in size and takes access from the south off a four exit roundabout. The site is currently laid to grass.
- 6.2 The site is bordered to the west by a cluster of buildings used as boarding kennels and a cattery along with an associated residential property. Hawk Lane is located directly to the west and gives access to Hawk Farm Shop. This narrow track runs along the length of the western boundary of the site. To the north of the site is a church which was constructed in 2011 and is run by the Church of Jesus Christ of Latter Day Saints. The church is accessed via a separate access that runs along the eastern boundary of the site. To the north-east of the site is Weeley Crematorium which is served by a separate access off the same roundabout exit.
- 6.3 The site is largely devoid of any vegetation apart from a small area of trees adjacent to the site access and some newly planted trees along the site perimeter.
- 6.4 The application site lies outside of the defined settlement development boundary of Weeley as set out in the Tendring District Local Plan (2007) and the Draft Plan (Tendring District Local Plan Proposed Submission Draft 2012). The settlement boundary as established in the Tendring District Local Plan (2007) commences at the entrance of the village approximately 80m to the east of the site access.

Proposal

- 6.5 The application seeks outline consent with all matters reserved for the construction of 9 dwellings with associated garaging and parking. The indicative housing mix plan shows 7 no. 5 bed properties and 2 no. 4 bed properties.

- 6.6 The applicant has indicated that whilst all matters are reserved for later consideration, an indicative drawing has been submitted to indicate how development could be achieved within the application site. The indicative layout plan shows the 9 dwellings arranged off 3 internal estate roads. Four properties would face southwards addressing the roundabout and Colchester Road, whilst the remaining dwellings would address the access roads on which they are sited.
- 6.7 These properties are indicated as accommodating a minimum of 100 square metres of private amenity space.
- 6.8 The submitted landscape strategy plan shows that there would be sufficient scope to provide tree planting around the perimeter of the site, particularly at the southern and northern ends of the site.

Principle of Development

- 6.9 The application site is located outside of the settlement boundary as defined within the Tendring District Local Plan, 2007 which aims to direct 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.
- 6.10 Weeley/Weeley Heath 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. Saved 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.
- 6.11 Weeley/Weeley Heath is identified within Policy SD3 of the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014) as a Key Rural Service Centre, where such settlements will be the focus for small-scale employment and tourism related development that reflects their unique rural character, local housing and employment needs and physical, environmental and infrastructure constraints.
- 6.12 Given the limited weight that can be applied to the draft Local Plan, and the status of policy QL1, assessment of the principle of development falls to be considered under the NPPF.
- 6.13 Chapter 6 of the National Planning Policy Framework (NPPF) has as an objective for 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.
- 6.14 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers consider that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF.
- 6.15 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.

- 6.16 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.
- 6.17 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.

Economic

- 6.18 Officers consider that the proposal would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants utilising local services, and so meets the economic arm of sustainable development..

Social

- 6.19 In terms of the social role, the site is within reasonable proximity of the local amenities within Weeley village such as a village convenience store, post office and bakery within walking distance of the site. The site is also within walking and cycling distance of the local primary school and recreational area. Weeley/Weeley Heath is also on a bus route and there is a bus stop located approximately 180m away on Colchester Road to the east of the site with services to Clacton, Frinton and Colchester.
- 6.20 In addition it is noted that Weeley Railway Station is within walking distance of the site, which connects Weeley to Frinton/Walton and Clacton (via Thorpe-le-Soken), and further afield into Colchester and London. These facilities go some way to illustrate the sustainability credentials for the village.
- 6.21 It is noted that Weeley has been identified as one of seven 'Key Rural Service Centres' within the district in Policy SD3 of the draft Local Plan. These are larger villages containing a relatively good range of local services and facilities with potential for proportionate growth in homes and jobs. For these settlements, the draft Local Plan identifies opportunities for the enhancement of village centres, public transport facilities and other community facilities. Whilst the policy has limited weight at this stage, it goes some way to illustrate the sustainability credentials for the village and the site.
- 6.22 Overall officers consider that the application site performs reasonably well in terms of the social role within the definition of sustainability.

Environmental

- 6.23 It is acknowledged that the site is physically detached from the residential development marking the entrance into Weeley Village to the east. However, the site is located within an existing cluster of buildings that are in mixed use, including residential to the west at Saxons Lodge. Therefore 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).

- 6.24 The environmental role is about contributing to protecting and enhancing the natural built and historic environment which is considered below under the heading Character and Appearance.

Character and Appearance

- 6.25 The site is currently classed as agricultural land but is laid to grass. The site is surrounded by built development to the north and north-east and hedgerows and vegetation on the majority of its boundaries. The presence of vegetation on the boundaries of the site combined with further planting to the south ensures that views into the site from surrounding vantage points are limited. The vegetation and built development gives the site a sense of enclosure.
- 6.26 The development proposed is of 9 no. dwellings which are sited along 3 internal access roads. The indicative drawings show that the majority of the dwellings would face outwards and suitably address the site perimeters, avoiding the potential for unsympathetic prominent boundary treatments. The provision of additional tree planting along the southern facing boundary of the site would further enhance the aesthetics of the development.
- 6.27 The development would be located adjacent to a recently constructed Church to the north. The indicative plan shows that the dwellings in this location would back onto this building. Although at this stage layout is a matter reserved for later consideration, an informative will be included on any permission encouraging a layout that addresses the Church incorporating modern architectural features to create a strong sense of place.
- 6.28 Whilst scale is a reserved matter the details submitted show that the dwellings would be two-storey in height served by single storey. The area comprises of a mixture of buildings of differing heights and massing. Against this backdrop the siting of 9.no two-storey properties on the site would not appear out of character or visually intrusive in this location.
- 6.29 Therefore taking into consideration the nature of the site, the existing character of the surrounding area and the vegetation present on and around the site, it is considered that the proposed development would have a neutral impact upon the environment and would as a result satisfy the environmental strand of sustainability as defined within the NPPF.

Neighbouring Amenity

- 6.30 The NPPF, in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. Policy SD9 of the Tendring District Local Plan Proposed Submission Draft (2012) supports these objectives and states that 'the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'.
- 6.31 The application is in outline form with all matters reserved and Officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties or the future occupiers of the proposed dwellings.
- 6.32 Saxons Lodge to the west of the site operates a commercial cattery and kennels business. Concerns have been raised in regard to the potential for noise complaints from the future residents of the development. The nearest proposed dwellings to the kennels building at Saxons Lodge would be sited approximately 75m away with Hawk Lane and dense

vegetation sited in-between. Consequently the potential for noise complaints from future residents of the property are low. Notwithstanding this point, a noise attenuation strategy for the development to mitigate against the potential for noise will be required via condition

Highway Considerations

- 6.33 Essex County Council as the Highway Authority has been consulted on the application (see above for details). They raise no objection to the principle of the development and vehicular access from the existing access into the site. A transportation review of the site has been provided which concludes that the site is served by good off-road links to the village of Weeley to the east and the area has highway street lighting that provides a safer highway environment. The survey confirms that the development traffic and pedestrian flows will be low.
- 6.34 It is noted that objections have been received with regards to highway safety concerns, however as stated the Highway Authority have not raised any concerns from a highway safety aspect, and therefore Officers consider a refusal on this issue could not be substantiated.
- 6.35 The Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. It is considered that the site is capable of accommodating this level of parking and the submitted indicative plan demonstrates this.

Biodiversity

- 6.36 The application site whilst devoid of any species rich habitat (the site is predominantly grassland), is largely surrounded by hedgerows and several trees with a drainage ditch located to the north-west of the site. As a result a phase 1 habitat survey has been submitted.
- 6.37 The survey confirms the site is not generally suitable for protected species as it is classed as amenity grassland. Furthermore, the survey confirms that the hedgerows present are species poor and therefore unlikely to support any protected or notable species. In particular the hedgerows are thought to be of negligible value to local bat populations for foraging and / or commuting. However a precautionary lighting strategy will be secured via condition to avoid light pollution onto adjacent habitats. No bat roosting features were found at the time of the survey.
- 6.38 Therefore the inclusion of conditions relating to the timing of hedgerow clearance and the use of sensitive lighting will help to ensure any impact upon nesting birds and foraging bats is minimal. Furthermore, there is an opportunity to increase the ecological value of the site, which is currently low, via wildlife friendly landscaping and the provision of bat and bird boxes.
- 6.39 As such the proposed development is not considered to adversely affect any nearby ecological designations, or protected species.

Legal Obligations

- 6.40 Policy COM6 of the Tendring District Local Plan 2007 requires proposals for residential development on sites below 1.5 hectares in size to contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built. The financial requirement must accord with the provisions of the Council's

Supplementary Policy Document (SPD). A similar policy stance is taken in draft plan Policy PEO22.

- 6.41 A consultation response from the Council's Open Space manager states that "due to the lack of facilities in the area it is felt that a contribution towards play is justified and relevant to this planning application". The project that the contribution is to be applied to is the provision of additional Play Equipment, Hilltop Crescent, Weeley.
- 6.42 Saved Policy HG4 of the Tendring District Local Plan (2007) and Draft Policy PEO10 of the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014) require that for settlements with a population of 3000 or fewer housing developments which have the potential for 5 or more dwellings the Council expect 25% of new dwellings to be made available to Tendring District Council to acquire at a discounted value for use as Council Housing, or as an alternative, the Council will accept a minimum of 10% if new dwellings are to be made available to the Council alongside a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 25% requirement.
- 6.43 Saved Policy HG4 of the Tendring District Local Plan 2007 states that the Council will expect 40% of new dwellings to be made available in the form of affordable housing to be normally provided on site, in the following cases:
- a) In settlements of over 3,000 population: housing development for 15 or more dwellings or residential sites of 0.5 hectares or more;
 - b) In settlements with a population of 3,000 or fewer housing developments which have the potential for 5 or more dwellings or residential sites of 0.15 hectares or more.
- 6.44 The National Planning Policy Framework requires Councils to consider economic viability when it applies its policies and the Council's own 2013 viability evidence in support of the Local Plan demonstrates that 40% affordable housing is unlikely to be viable in Tendring and that 25% (as contained within emerging Policy PEO10) is more realistic. The threshold under Saved Policy HG4 will therefore be applied but the percentage will be 25% as detailed under emerging Policy PEO10.
- 6.45 The Council's Housing Department have confirmed that an off-site financial contribution would be preferred in this instance and a figure of £210,000 has been calculated.
- 6.46 The applicant has agreed to provide both the public open space and affordable housing contributions and on this basis a unilateral undertaking is being drafted to secure these contributions. The recommendation reflects the need to obtain a completed unilateral undertaking prior to the issuing of any planning permission.

Background Papers

None