

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	23/11/2018
Planning Development Manager authorisation:	AN	27/11/18
Admin checks / despatch completed	KAC	28/11/18

**Application:** 18/01575/OUT **Town / Parish:** Ardleigh Parish Council

**Applicant:** Mr and Mrs McKellar

**Address:** Chantry's Fox Street Ardleigh

**Development:** Outline application for one self build dwelling.

### 1. Town / Parish Council

Ardleigh Parish Council objects to this planning application.

This property sits outside the village settlement development boundary and as such should be refused as Ardleigh does not need further large detached dwellings. And Tendring can demonstrate it has its 5 year housing supply.

A further factor with this application is the entrance would be very close to the road junction and dangerous.

### 2. Consultation Responses

**Tree & Landscape Officer** The application site is set back from the highway and relatively well screened by existing vegetation on land between the site and the highway.

There are no trees or other significant vegetation in the main body of the application site.

There is an established hedgerow containing trees on the southern boundary of the application site although none of the trees have such amenity value that they merit protection by means of a tree preservation order.

It would appear that the hedgerow is not affected by the development proposal and be desirable for the vegetation on this boundary to be retained for the softening effect it would have on any development that may be granted planning permission.

Should planning permission be likely to be granted then the applicant will need to provide details of soft landscaping as indicated on the site layout plan ' as the application is in outline form this should be secured as a reserved matter.

Policy Section

Thank you for consulting the Planning Policy Team.

Status of the Local Plan

The development plan for Tendring comprises of the saved Policies of The Tendring District Local Plan (2007) (LP). An Examination in

Public is currently underway on the emerging Tendring District Local Plan 2013-2033 (ELP). The ELP is being prepared in two sections. The first section is being prepared by Braintree, Colchester and Tendring Councils and relates to strategic matters including housing targets and strategic allocations (section 1). The second relates to more detailed local policies including non-strategic allocations (section 2).

Following the examination hearing sessions on section 1 of the ELP, the examining Inspector raised a number of concerns with regard to the soundness of the plan as submitted. In order to make the plan sound the Inspector recommended either the removal of elements relating to new garden cities, the provision of significant additional evidence or to withdraw the plan. At the time of writing, the Councils have not yet decided how to proceed with the ELP. Work will not proceed on section 2 of the ELP until section 1 of the ELP has been found sound.

It is clear therefore that the ELP can be afforded very limited weight. This being said, the local plan examining Inspector in his letters found the demographic starting point of 480 DPA with market signals uplift to an OAN of 550 DPA as soundly based having considered the implications of the 2016 based SNPP. At the time of writing the Council could identify a deliverable five year supply of housing land. This has been borne out by recent independent planning appeals throughout the District.

#### Principle of development

The proposed development is located outside of defined Settlement Development Boundaries (SDBs) as identified within both the LP and the ELP. The development is therefore located within the open countryside where restrictive policies apply. Given the above, a key consideration in this instance will be those policies contained within the National Planning Policy Framework (NPPF). An important material consideration is the NPPF's 'presumption in favour of sustainable development', but as has been stated above this is not the only consideration to make. The NPPF defines 'sustainable development' as having three dimensions: economic, social and environmental and these are assessed below:

#### Economic

It is considered that residential development would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants using facilities in the District. Whilst the proposed development does meet the economic strand of sustainable development, it is considered that it only does so marginally and that this would not, by itself negate the harm caused elsewhere.

#### Social

The NPPF seeks to support a prosperous rural economy. It promotes sustainable transport and seeks a balance in favour of sustainable transport modes to give people a real choice about how they travel, recognising that opportunities to maximise solutions will vary between urban and rural areas. With regard to the social dimension, this means supporting strong, vibrant and healthy communities by supplying the housing required to meet the needs of present and

future generations and creating a high quality environment with accessible local services.

The site is located some distance away from Colchester Fringe SDB (over 1km) and therefore not within walking distance of the village. There is no real village centre within the Colchester fringe. The nearest centre would be Elmstead Market is also some significant distance away from the application site. The site therefore appears to not satisfy the social evaluation conducted by planning policy.

#### Environmental

Whilst the environmental role is considered in greater detail elsewhere in this report by the case officer, it is worth making some initial comments. These, however, will not consider such detail as the cumulative impact of development within the locality or a detailed assessment of local character. The site is proposed to be located between two dwellings on the north side of Fox Street which is broadly defined by ribbon development in plots which vary in size and orientation to the road frontage. The development would constitute further ribbon development. The area as a whole and site itself are located in open countryside but has no other designation on the land when considering the LP or the ELP. The site appears to not satisfy the environmental evaluation conducted by planning policy.

#### Local Policy compliance - Publication Draft Local Plan (2017)

The principle policy at a local level to be considered is the self-build and custom-built homes policy LP7, though how much weight can be attributed to this is of some debate (see above). Amongst other things, this emerging policy states:

"The Council will also consider, on their merits, proposals for Self-Build and Custom-Built Homes on land outside of settlement development boundaries, not involving the replacement of an existing dwelling, where they will still support a sustainable pattern of growth in the District. Such developments must either:

- a) be located on a site safely accessible on foot within 600 metres of the edge of the settlement development boundary of one of the District's 'strategic urban settlements', 'smaller urban settlements'.
- b) be located on a site safely accessible on foot within 400 metres of the edge of the settlement development boundary of one of the District's 'rural service centres'; or
- c) involve the redevelopment of vacant or redundant previously developed land that can be shown, with evidence, to be unviable for employment use."

The site is located some 3.9KM from central Colchester and 7.2KM from the SDB of the nearest Strategic Urban Settlement (Lawford) and some 4KM from the nearest Rural Service Centre (Elmstead Market). The proposed development would not be policy compliant with LP7 due to the distances involved.

I trust that the above is of help to you.

Should I be able to assist any further, please do not hesitate to contact me.

reason:

The developer has not demonstrated that the proposal would be acceptable in terms of highway safety and efficiency.

Note -

The Highway Authority may reconsider the application should the following additional information be submitted, given the proposal would intensify the use of an access onto the A137 Harwich Road/Colchester Road -

1. A drawing demonstrating visibility splay dimensions at the proposed access to accord with current design standards for a 40mph speed limit of 2.4m x 120m in both directions.

ECC Highways Dept

The Highway Authority is satisfied the applicant can achieve the required visibility splay for the speed of vehicles using A137, Harwich Road.

UU Open Spaces

No contribution towards play and open space is required on this application.

### **3. Planning History**

05/01026/FUL	Alterations and single storey extension to form new sitting room, master bedroom, dressing room, entrance hall and cloakroom	Approved	29.07.2005
05/02194/FUL	Erection of single storey side and rear extensions	Approved	07.02.2006
83/00953/FUL	Rear extn and formation of rooms in roof	Approved	13.09.1983
10/00226/FUL	Extension and alterations to existing single garage to provide double garage with new pitched roof over, as amended by drawing no. MJC/10/494/01 RevC received on 30/04/10.	Approved	24.05.2010
11/00302/NMA	To reduce the overall width of the proposal from 6100mm to 5900mm.	Approved	18.04.2011
10/60450/HOUEN Q	To erect extension to single storey garage and make into double garage including pitched roof		14.01.2010
13/00817/FUL	Formation of double garage and re-roofing of whole. (as previously approved 10/00226/FUL)	Approved	02.09.2013
17/30038/PREAPP	Proposed erection of 1 no. dwelling.	Refused	27.03.2017

### **4. Relevant Policies / Government Guidance**

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

## Tendring District Local Plan 2007

- QL1 Spatial Strategy
- QL9 Design of New Development
- QL10 Designing New Development to Meet Functional Needs
- QL11 Environmental Impacts and Compatibility of Uses
- HG6 Dwelling Size and Type
- HG7 Residential Densities
- HG9 Private Amenity Space
- EN1 Landscape Character
- TR1A Development Affecting Highways
- TR7 Vehicle Parking at New Development
- COM6 Provision of Recreational Open Space for New Residential Development

## Tendring District Local Plan 2007

- SP1 Presumption in Favour of Sustainable Development
- SPL1 Managing Growth
- SPL3 Sustainable Design
- LP1 Housing Supply
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP7 Self-Build and Custom-Built Homes
- PPL3 The Rural Landscape
- HP5 Open Space, Sports & Recreation Facilities
- CP1 Sustainable Transport and Accessibility

## Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

### **Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the Council is able to demonstrate a robust five year supply of deliverable housing sites (as confirmed in recent appeal decisions) and housing delivered over the previous three years has been comfortably above 75% of the requirement. There is consequently no need for the Council to consider an exceptional departure from the Local Plan on housing supply grounds and applications for housing development are to be determined in line with the plan-led approach.

## **5. Officer Appraisal (including Site Description and Proposal)**

### Site Description

The site measures approximately 0.1 hectares and is situated on the north western side of Fox Street, between the bungalows known as 'Chantrys' and 'Fox Hill', within the ribbon of houses and bungalows fronting this part of Fox Street. It is situated approximately 800m from the district boundary and Welshwood Park to the south, part of the urban conurbation of Colchester. Between the site and Fox Hill is an area of mature trees and shrubs, located outside the application site area.

### Description of Proposal

The application seeks outline consent with all matters reserved for the erection of 2 dwellings with associated garaging and off-street parking.

An indicative layout plan has been submitted with the application showing the single dwelling to be sited the north-eastern side of Chantrys almost in line with its front elevation. The dwelling is shown to be served by a shared driveway with Chantrys.

### Assessment

The main considerations in this instance are;

- Principle of Development (including 5 year housing land supply);
- Layout, Scale, Character and Impact;
- Self Build/Custom Build Dwellings;
- Residential Amenities;
- Highway Safety and Parking;

- Trees and Landscaping;
- Financial Contributions, and;
- Representations.

#### Principle of Development

The site lies outside of the Settlement Development Boundary as defined by the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). 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. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.

The National Planning Policy Framework 2018 (NPPF) requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

The Council can demonstrate, with robust evidence, a five-year supply of deliverable housing sites and this has been confirmed in recent appeal decisions. This is based on a housing requirement of 550 dwellings per annum which has been confirmed as sound by the Inspector for the Local Plan examination on 27 June 2018 (Examination of the Strategic Section 1 Plan - Meeting the Need for New Homes (Plan chapter 4)). Therefore policies for the supply of housing are not out of date and applications for housing development are to be determined in accordance with the Local Plan.

Therefore, having regard to the latest housing land supply figures and with the emerging Local Plan progressing well, officers consider that greater weight can be given to Section 3 (Plan-Making) of the NPPF. Under this section, paragraphs 15, 17 and 20 state that the planning system should be genuinely plan-led, must include strategic policies to address local planning authority's priorities for the development and use of land, and should set out an overall strategy for the pattern, scale and quality of housing development.

Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations therefore being in line with the aims of the aforementioned paragraphs 15, 17 and 20 of the NPPF. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.

There would be conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site's location beyond the settlement development boundary. However, while the NPPF advocates a plan-led approach, recent appeal decisions advocate that a 5 year housing supply is not a ceiling on development and that it is important to consider whether any circumstances outweigh the conflict. Development should be plan led unless material considerations indicate otherwise.

Therefore, in line with Paragraph 8 of the National Planning Policy Framework (2018), achieving sustainable development means meeting an economic objective, a social objective and an environmental objective. These can be assessed as follows;

#### - Economic

It is considered that 1 new dwelling would make a small economic contribution to the area, for example by providing employment during the construction of the development and from future occupants using facilities in the area.

#### - Social

Ardleigh is categorised in emerging Policy SPL1 as a 'Smaller Rural Settlement' in recognition of its size and small range of local services.

Socially, it is necessary to consider the proximity of the site to destinations such as convenience shopping, education, healthcare, community halls and jobs. Fox Street is a smaller rural settlement being defined separately to Ardleigh but is situated approximately 800m from Welshwood Park to the south, part of the urban conurbation of Colchester. Fox Street is the A137 principal road between Colchester and Manningtree. It is served by three bus routes, namely 102, 103 and 104 which provide a half hourly service with 28 buses per day in each direction from 6.51am to 11.17pm from Colchester to Ardleigh, Manningtree and Harwich. Welshwood Park/St John's provide a number of shopping and employment facilities. Furthermore, there is a restaurant and takeaway to the south and other local businesses to the north.

There would be an appropriate level of services, facilities and infrastructure nearby to serve the scale of the development proposed and the occupiers of the dwelling would not be unduly dependant on their car. The number of trips by private car associated with a single dwelling would be low and journeys by car would be short. Travel patterns generated by a single dwelling in this location would not cause environmental harm.

The site is therefore considered to perform reasonably well under the socially sustainable strand and it would be unreasonable to refuse planning permission on this basis.

#### - Environmental

The environmental role is about contributing to protecting and enhancing the natural built environment.

Paragraphs 127 and 170 state that developments should function well and add to the overall quality of the area, be visually attractive as a result of good architecture, layout and appropriate and effective landscaping, be sympathetic to local character and history, including the surrounding built environment and landscape setting and planning policies and decisions should contribute to and enhance the natural and local environment by, inter alia, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.

The application site is not isolated in nature being surrounded by existing residential development and currently forming extended curtilage associated with Chantrys. The residential development on the opposite side of Fox Street is predominantly linear in character. On this side of Fox Street in the immediate locality of the application site the residential character is more loosely knit, with dwellings being casually positioned within their plots. The site is enclosed and well screened from public view by existing dense vegetation and trees on the boundary with the highway.

The development of the site for 1 detached dwelling in the manner suggested on the indicative layout plan would essentially appear as an infill development. Overall, officers consider that through the submission of a reserved matters application a satisfactory layout and scale could be achieved for 1 detached dwelling. The proposal would physically and visually appear part of the existing built-up area and would not result in any wider landscape harm. Within its context, the proposal would be environmentally sustainable.

#### Self Build/Custom Build Dwellings

Reference is made within the appellants statement regarding Policy LP7 of the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). However, this is a new policy with no equivalent saved policy within the adopted Local Plan. The NPPF is silent on policies relating directly to self-build or custom-built dwellings.

Whilst the emerging Local Plan is progressing well, Draft Policy LP7 has not yet been scrutinised by the Planning Inspectorate by an appeal or through the Local Plan process. It can therefore only be given very limited weight. Other policies such as Draft Policy SPL1 have been endorsed by the Planning Inspector as being in line with the the NPPF.



The National Planning Policy Guidance tells us that The Self-build and Custom Housebuilding Act 2015 requires each relevant authority to keep a register of individuals and associations of individuals who are seeking to acquire serviced plots of land in the authority's area in order to build houses for those individuals to occupy as homes (referred to in the guidance as self-build and custom housebuilding registers). The guidance accompanies the Self-build and Custom Housebuilding (Register) Regulations 2016 made under the Act.

Section 2(1) of the Self-build and Custom Housebuilding Act 2015 places a duty on relevant bodies to have regard to each self-build and custom housebuilding register that relates to their area when carrying out their plan-making and decision-taking functions. The registers that relate to their area may be a material consideration in decision-taking. Plan-making functions should use their evidence on demand for this form of housing from the registers that relate to their area in developing their Local Plan and associated documents.

Regardless of the merits of the application in relation to this policy, the status of Draft Policy LP7 means that a refusal based on this policy is not required at this time.

#### Residential Amenities

The NPPF, in paragraph 127 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 SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) supports these objectives.

Officers consider that sufficient space is available on site to provide a development that could achieve an internal layout and separation distances that would not detract from the amenities of any nearby dwellings or the future occupiers of the proposed dwellings and would provide private amenity areas in excess of the standards set out within Saved Policy HG9 of the adopted Local Plan for both the new and donor dwellings.

#### Highway Safety and Parking

Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate.

Officers consider that sufficient space is available on site to provide a development that could achieve parking in line with the requirements the Council's current adopted Parking Standards. The traffic movements associated with an additional dwelling is unlikely to cause undue harm to highway and pedestrian safety.

Following receipt of additional information from the Agent, the Highway Authority is satisfied the applicant can achieve the required visibility splay for the speed of vehicles using A137, Harwich Road and therefore raise no objection to the development.

#### Trees and Landscaping

The Council's Tree and Landscaping Officer is satisfied that the development could go ahead without any harm to existing trees and landscaping and subject to soft landscaping secured at the reserved matters stages a satisfactory development could be achieved.

#### Financial Contributions

In line with the requirements of saved Policy COM6 and emerging Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement of a financial contribution toward public open or play space.

It was concluded that no contribution towards play and open space is required on this application.

#### Representations

Ardleigh Parish Council objects to this planning application on the following grounds;

- Site outside the settlement development boundary
- The Council has a 5 year housing land supply.
- Ardleigh has no need for further large detached dwellings.
- Dangerous access.

The principle of the development its layout and impact have all been addressed in the main report above.

1 letter of support has been received stating that the site is in a sustainable location and makes better use of the plot.

#### Conclusion

It is accepted that the site is not in a preferred location for growth and there would be some conflict with QL1 but this would not amount to any social, economic or environmental harm that would warrant the refusal of planning permission. There is nothing substantive to suggest that Council's ability to manage growth through the plan-led approach would be undermined by the approval of this application. Accordingly the application is recommended for approval.

### **6. Recommendation**

Approval - Outline

### **7. Conditions**

- 1 The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

- 3 No development shall be commenced until plans and particulars of " the reserved matters" referred to in the above conditions relating to the access, appearance, landscaping, layout and scale have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - The application as submitted does not provide sufficient particulars for consideration of these details.

- 4 No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body 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.

### **8. Informatives**

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.