

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	13/12/18
Planning Development Manager authorisation:	AN	18/12/18
Admin checks / despatch completed	AN	18/12/18

Application: 18/01669/FUL **Town / Parish:** St Osyth Parish Council

Applicant: Mr and Mrs E Greig

Address: Heath Road St Osyth Essex

Development: Two semi-detached houses, garages, landscaping and access.

1. Town / Parish Council

St Osyth Parish Council The Parish Council object to this application on the basis that two previous applications associated with this site, which is outside of the Settlement Development Boundary, one for an aspirational dwelling, the other for up to four dwellings (14/00122/OUT and 17/00112/OUT refer), have been refused as the applicant has been unable to provide evidence of the need for such dwellings, or prove that the proposed dwellings would constitute a sustainable development.

Furthermore, the Parish Council would reaffirm its comments of 26th February 2014, in that this application is little more than an attempt to build a new dwelling in the country, on former agricultural land. There is no need or justification for this property.

2. Consultation Responses

UU Open Spaces Response from Public Experience Open Space & Play

Application Details

Application No: 18/01669/FUL

Site Address: Heath Road St Osyth Essex CO16 9BS

Description of Development: Two detached houses, garages, landscaping and access.

Current Position

There is currently a deficit of 6.44 hectares of equipped play and formal open space in St Osyth and Point Clear.

There are three play areas in St. Osyth and Point Clear. The nearest play area to the development site is located at Cowley Park on Mill Street. This play area is classified as a Local Equipped Area for Play but is limited in size.

Recommendation

Due to the limited provision in the village it is felt a contribution towards play and formal open space is justified and relevant to this planning application.

Any contribution received as a result of this development would be spend to provide additional play facilities at:

Cowley Park

ECC Highways Dept

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following measures:

1. Prior to the first occupation of the development the access arrangements, visibility splays, vehicle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The access, parking and turning areas shall be retained in perpetuity for their intended purpose.

Reason: To ensure that appropriate access, parking and turning is provided.

2. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety.

3. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed in the interest of highway safety.

The above measure is required to ensure that this proposal is not contrary to the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative

- i. There shall be no discharge of surface water onto the Highway.
- ii. 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, 653 The Crescent, Colchester C04 9YQ

Tree & Landscape Officer

The main body of the application site is set to grass. There is a small Oak situated on the western boundary of the application site: set back at a mid-point of the depth of the plot.

There are also three trees on the boundary with the highway; two Hawthorns and one small Oak.

None of the trees have such amenity value that the merit retention or protection by means of a tree preservation order. All existing trees are shown as retained.

Should planning permission be likely to be granted then a soft landscaping should be attached to secure details of the new planting shown on the site layout plan.

3. Planning History

14/00122/OUT	One aspirational dwelling house.	Refused (Dismissed at appeal)
17/00112/OUT	Outline application for up to 4 No. dwellings.	Refused (Dismissed at appeal)
17/00357/OUT	Outline planning application for three detached dwellings.	Refused (Dismissed at appeal)

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

EN1 Landscape Character

EN6 Biodiversity

HG1 Housing Provision

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

LP1 Housing Supply

LP2 Housing Choice

LP4 Housing Layout

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL3 Sustainable Design

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

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

Site Description

The application site lies to the northern side of Heath Road, St. Osyth close to the junction with Frowick Lane and Clay Lane to the west. The site is rectangular in shape and is approximately 0.15 hectares in size and is currently open grassed land. The character of the surrounding area is semi-rural, with built form to the immediate south, east and west; however further out the land is dominated by large areas of grassed and agricultural land.

The site is located outside of a recognised Settlement Development Boundary, as per the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Description of Proposal

This application seeks full planning permission for the erection of two semi-detached dwellings, each to serve four bedrooms.

Planning History

Under planning reference 14/00122/OUT, planning permission was refused on this site for the erection of one aspirational dwelling.

Under planning reference 17/00357/OUT, planning permission was refused on the site adjacent to the south for the erection of three dwellings. This was also dismissed at appeal (reference APP/P1560/W/17/3176773) where the Inspector concluded that the site was located in a relatively rural location without a good range of basic services nearby.

More recently, planning permission for the erection of four dwellings was refused on this site under planning reference 17/00112/OUT. Again, this was also dismissed at appeal (reference APP/P1560/W/17/3175764) where the Inspector once more noted the site is remotely located relative to services and facilities, and would also harm the loose knit rural character and appearance of the area.

Assessment

1. Principle of Development

The site lies outside of a 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 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 SPI1 in terms of the site's location beyond the settlement development boundary. However, while the NPPF advocates a plan-led approach, it is important to consider whether any circumstances outweigh the conflict. Development should be plan led unless material considerations indicate otherwise and it is accepted that the site is not in a preferred location for growth.

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. Each is assessed below.

Economic:

It is considered that the proposal for two dwellings would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants using the nearby facilities, and so meets the economic arm of sustainable development.

Social:

Within planning appeal decision APP/P1560/W/17/3175764 on this site, the inspector stated the following: *"Given the distance and inconvenient walking environment, it would be highly likely that future residents of the appeal scheme would be predisposed to rely on a private car to access everyday services and facilities . . . I therefore conclude that the appeal scheme would provide homes that would be remote and thus isolated from services and facilities . . . the remoteness of the appeal site would result in social harm as it would leave future occupants of the proposed dwellings largely reliant on private vehicles with limited travel choices."*

Further, within planning appeal decision APP/P1560/W/17/3176773 on the site adjacent to the south, the Inspector concluded *"The proposal would provide three dwellings in a relatively remote rural location lacking a good range of basic services nearby which would mean occupiers depending on private car journeys to meet daily needs."*

Given these recent and relevant appeal decisions it is clear that the application is site is remotely located and isolated from key services and facilities, thereby ensuring a heavy reliance on the use of the private vehicle to meet every day basic needs. Therefore the proposed development fails to accord with the social strand of sustainability and there is an objection in principle to the residential development of the site.

Environmental:

In relation to the environmental dimension, the layout shows two semi-detached dwellings each with a garage served by a shared central access with the remainder of the boundaries being

enclosed by hedging. Given the built up character of the immediate vicinity the development of the site in this fashion would not be considered to result in any significant harm to the semi-rural character of the locality. This density of development would not be out character with the surrounding pattern of development and each plot is well spaced as to not appear cramped.

2. Design, Layout and Appearance

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The proposed dwellings are to be semi-detached, two storeys and sited to the north-west of 1 Heath Road. The dwellings will be accessed via a new central access point created to the south of the site off Heath Road. The siting of the dwellings will be in line with both 1 Heath Road and also the dwelling currently under construction adjacent to the north-west (planning approval 15/00347/FUL). There is not a strong, distinctive character to the surrounding area; however to the south-east are two pairs of semi-detached dwellings. The proposed siting and principle of semi-detached dwellings in this location is therefore considered to be acceptable.

In terms of the design of the dwellings, they take the form of a semi-rural appearance. They are both considered to be of good visual design; key features have been included to help break up the bulk of the built form. These features include front gables, canopy's, dormers and chimneys. Further, it is noted that there is no set building set within the surrounding area to adhere to, and therefore the dwellings would assimilate well within their surroundings.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of three bedrooms or more should be a minimum of 100 square metres. The information that has been supplied shows that this is comfortably achievable for both new dwellings.

3. Impact to Neighbouring Amenities

Policy QL11 of the Saved Plan 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'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

There are adjacent neighbours located to the south-east (1 Heath Road) and the dwelling currently under construction following planning approval 15/00347/FUL. However, whilst the dwellings will adjoin the side boundaries there is overall separation distances of 7m and 4m respectively. This distance ensures the dwellings will not be imposing or result in a significant loss of light. In terms of overlooking, there will be no first floor side elevation windows, and whilst there are a number of first floor rear elevation windows, views will be to the rear of the neighbouring gardens, areas less likely to be regularly occupied, and is therefore acceptable.

4. Highway Impacts

Essex County Council Highways have been consulted as part of this application and have stated the proposal is acceptable subject to conditions relating to access arrangements, no unbound materials and future access gates.

Adopted Car Parking Standards state that for a dwelling of two or more bedrooms, provision should be made for a minimum of two parking spaces measuring 5.5m x 2.9m or a garage, if being used as one of the parking space, should have a minimum internal measurement of 7m x 3m. The submitted plans show the proposed garages or car ports do not accord with the above measurements; however there is sufficient space to the front of the dwelling to accommodate the necessary parking requirements for both dwellings.

5. Tree and Landscapes Impact

The main body of the application site is set to grass. There is a small Oak situated to the western boundary, and also three trees on the boundary with the highway - two Hawthorns and one small Oak. However, none of these trees have such amenity value that they merit retention or protection by means of a tree preservation order.

Had the application been recommended for approval a condition to ensure details of soft landscaping as indicated within the submitted site layout plan would have been attached.

6. Biodiversity

The applicant has undertaken and supplied a Phase 1 Habitat Survey within the submitted plans. The information confirms the survey was undertaken 14 August 2018 and the results showed subject to mitigation measures the proposed development will not result in significant harm to local wildlife. Had the application been recommended for approval the mitigation measures highlighted within the survey would have been conditioned.

7. Legal Obligations

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

The Council's Public Open Space and Play Team have stated there is currently a deficit of 6.44 hectares of equipped play and formal open space in St Osyth and Point Clear. The nearest play area to the development is located at Cowley Park on Mill Street. Therefore, due to the limited provision in the village it is felt a contribution towards play and formal open space is justified, with the money to be spent to provide additional play facilities at Cowley Park.

This application has not come with a correctly completed unilateral undertaking for a contribution towards play and formal open space facilities.

No such contribution has been included within this application nor has any justification for the lack of a contribution and therefore this scheme does not comply with Policy COM6.

Other considerations

St Osyth Parish Council object to the application due to similar nearby applications being refused and the applicant not providing sufficient justification for why this proposal would overcome the previous refusal reasons.

There has been one letter of objection received, with the following concerns:

1. Not a sustainable location;
2. Concerns to local wildlife; and
3. Impact to neighbouring amenities

Conclusion

For the reasons set out above, the proposal is considered to represent an unsustainable form of development contrary to the aims of national and local plan policy and is therefore recommended for refusal.

6. Recommendation

Refusal.

Refusal.

7. Reasons for Refusal

- 1 The site lies outside of a 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 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 in 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, it is important to consider whether any circumstances outweigh the conflict. Development should be plan led unless material considerations indicate otherwise and it is accepted that the site is not in a preferred location for growth.

The application proposes the erection of two dwellings in a relatively remote location where future occupiers would be heavily dependent on the private car to access services to meet the majority of their everyday basic needs. The social role of sustainability would not therefore be fulfilled.

The proposal would not therefore represent sustainable development and there is an objection in principle to the residential development of the site.

- 2 Paragraph 54 of the National Planning Policy Framework (2018) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF

states planning obligations must only be sought where they meet are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

There is currently a deficit of 6.44 hectares of equipped play and formal open space in St Osyth and Point Clear. There are three play areas in St Osyth and Point Clear, the nearest play area to the development site is located at Cowley Park on Mill Street. This play area is classified as a Local Equipped Area for Play but is limited in size.

Due to the limited provision in the village a contribution towards play and formal open space is justified and relevant to this planning application, with contributions received being spent on additional play facilities at Cowley Park.

This application has not come with a correctly completed unilateral undertaking for a contribution towards play and formal open space facilities.

No such contribution has been included within this application and therefore this scheme does not comply with Policy COM6.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.