

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	ML	02/04/2019
Planning Development Manager authorisation:	SCE	03.04.19
Admin checks / despatch completed	ER	4/4/19

ER

Application: 17/01912/OUT **Town / Parish:** Weeley Parish Council

Applicant: Mr John Lynch - South East Developments Limited

Address: Land at rear of 3 Mill Lane Weeley Heath

Development: Residential development of five bungalows.

1. Town / Parish Council

Mrs Nicola Baker

Weeley Parish Council objects to this application for the following reasons:

1. If approved, development of this site could set a precedent for further development of the remaining area of the adjacent field.
2. The increase in traffic levels is unacceptable, especially around the bend on Clacton Road.
3. This site is outside the development boundary.
4. This proposal constitutes backland development.
5. The proposal affects the grounds of a listed property.
- 6., The site is too small for the proposed number of bungalows.
7. There is the possibility of increasing the flood risk elsewhere, as acknowledged on the application form.

2. Consultation Responses

UU Open Spaces

Current Position

There is currently a deficit of -2.18 hectares of equipped play and formal open space in Weeley.

There are two play areas in Weeley. One located at Hilltop Crescent and one along Clacton Road. Both play areas are classified as Local Equipped Areas for Play.

Due to the limited provision in Weeley, in terms of both play and formal open space it would be necessary to increase provision in the area should further development take place.

Recommendation

Due to the significant lack of facilities in Weeley if it felt that a contribution is justified and relevant to this planning application.

Any contribution would be used to provide additional toddler facilities at Clacton Road, Weeley

Tree & Landscape Officer Plots 2,4,5 and 6 will not affect the trees on the south or south eastern boundaries of the site - or be affected by them.

In terms of Plots 1 and 3 the amended layout drawing shows an increased separation between the proposed dwellings and the protected trees however the information provided by the applicant, by way of the shading analyses, indicates that there will still be a relatively high degree of shading to both of these plots.

As plot 3 is only affected by one tree the shading will not be an issue until late afternoon or evening although this will be the time when future residents would be most likely to want to use the garden

Plot 1 has trees on both the eastern and southern boundaries and it is my view that this will cause an unacceptable level of shading to the garden.

In combination with the direct shading, the likely impact of the trees in terms of a general obstruction to light and problems associated with debris and detritus that will fall from the trees are such that it is not considered that a satisfactory relationship between the proposed dwellings and the trees has been achieved.

Simply in terms of the impact of the development proposal on the trees and the extent of the constraint that they are on the development potential of the land it is my view that the land on the southern side of the proposed new access road could accommodate two dwellings with gardens of sufficient size that the shading would not be such an important issue. In addition to this it is likely that an application made under the Tree Preservation Order to reduce the canopies of the trees, by something in the region of 30% would be looked upon favourably.

Environmental Protection Pollution and environmental control have no comments at this time

Regeneration The Regeneration Team have no specific comments to make on this application.

ECC Highways Dept AMENDED DRAWINGS NUMBERED 2451/82 REV E dated 28 FEBRUARY 2019

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

1 Prior to the first occupation of the proposed dwellings, the proposed vehicular access shall be constructed to a width of 5.5m for at least the first 6m. within the site tapering one-sided over the next 6m. to no less than 3.7m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

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

3 Prior to the proposed access being brought into use, vehicular visibility splays of 33m by 2.4m by 33 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 retained and maintained free from obstruction clear to ground thereafter.

4 Prior to the first use of the proposed access, details of the construction and future maintenance of the necessary bridging or piping of the drainage ditch/watercourse shall be submitted to and approved in writing by the Lead Local Flood Authority (Essex County Council)

5 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 which shall be retained and maintained free from obstruction thereafter.

6 Prior to first occupation of the proposed development, a (communal) recycling/bin/refuse collection point shall be provided within 20m of the highway boundary or adjacent to the highway boundary and additionally clear of all visibility splays at accesses and retained thereafter.

7 The development shall not be occupied until such time as a car parking and turning area has been provided in accord with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

8 Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

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

Tree & Landscape Officer

It should be noted that the planning application proposal still refers to the 'Residential development of 6 bungalows'. This should be amended as the application now relates to the development of 5 bungalows.

Although at the outline stage the applicant has submitted amended plans showing the positions of the proposed dwellings. The site plan shows that the dwellings could be constructed without resulting in an incursion into the Root Protection Areas of the protected Oaks on the perimeter of the application site. In this respect the development proposal does not compromise the retention or long term viability of the protected Oaks.

If planning permission is likely to be granted then a condition should be attached to secure details of the way that the trees would be

physically protected for the duration of the construction phase of the development. Any such information should be in accordance with BS5837: 2012 Trees in relation to design, demolition and construction: Recommendations.

The new access from Mill Lane seems a little convoluted however if the indicative tree planting shown on the amended indicative site plan for 5 dwellings were to be carried out then this would compensate for those trees that may need to be removed to facilitate the creation of the new access.

3. Planning History

17/01912/OUT	Residential development of five bungalows.	Current
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4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

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

HG1 Housing Provision

HG9 Private Amenity Space

HG13 Backland Residential Development

HG14 Side Isolation

EN1 Landscape Character

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN23 Development Within the Proximity of a Listed Building

COM6 Provision of Recreational Open Space for New Residential Development

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SP2 Spatial Strategy for North Essex

SPL1 Managing Growth

SPL3 Sustainable Design

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP8 Backland Residential Development

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL9 Listed Buildings

CP1 Sustainable Transport and Accessibility

HP5 Open Space, Sports & Recreation Facilities

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

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 supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site is located in a backland location to the south of Mill Lane within Weeley Heath. The site is situated outside of any defined settlement boundary and forms part of the rear garden of no.3 Mill Lane, which is a grade II listed property to the north. Directly to the south is a housing development under construction on the former Kidbys Nursery site. To the east are houses that fronts onto Clacton Road and to the west of the proposed access onto Mill Lane is a row of 6 recently constructed bungalows. The application site contains a range of plant species although much of the site is being used as a tennis court. There are several mature Oaks on the south eastern and south western boundaries of the land.

Proposal

This application proposes the erection of 5 no. detached bungalows on land forming the part rear garden of no.3 Mill Lane. The application is in outline form with all matters reserved.

However, an indicative layout plan has been provided showing the proposed access to the west of no.3 Mill Lane serving the 5 bungalows to the rear which address the access and turning head.

Appraisal

Principle

The application site is located outside of the Settlement Development Boundary for Weeley Heath as defined within the saved Tendring District Local Plan 2007 and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). Saved Policy QL1 of the Tendring District Local Plan (2007) seeks to direct development towards larger urban settlements defined within the Local Plan. 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.

The planning principles under paragraphs 15, 17 and 20 of the National Planning Policy Framework (2019) 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.

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 supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

With this in mind, the emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development towards the most sustainable locations. Weeley Heath is categorised in emerging Policy SPL1, along with seventeen other villages, as a 'Smaller Rural Settlement' in recognition of its size and relatively small range of local services. Weeley Heath and other smaller villages are considered to be the least sustainable settlements for growth and development should normally be restricted to small-scale development only, respecting the existing character and form of the village. Consequently the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) settlement development boundaries for Weeley Heath have been extended to accommodate the growth envisaged over the plan period. However, their extended defined boundaries do not include the proposed application site. As such the application site location is not considered to be a sustainable location for growth.

The NPPF advocates a plan-led approach that actively seeks to achieve sustainable patterns of growth. The proposed development however, due to its location outside of any defined settlement development boundary, is not considered sustainable.

Layout/Visual Impact

The proposal relates to 5 no. bungalows to be sited in garden land located behind the existing residential properties that front Mill Lane to the north. The development would be accessed via a narrow driveway which would run along the western side of the 3 Mill Lane. The layout shown represents backland development. Policy HG13 of the Tendring District Local Plan 2007 states that proposals for the residential development of 'backland' sites will be permitted where; amongst other things the following criteria are met:

- The proposal does not involve 'tandem' development using a shared access;
- The site does not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;
- The site is not on the edge of the defined settlement and likely to produce a hard urban edge or other form of development out of character in its particular setting; and
- The proposal would not be out of character with the area or set a harmful precedent for other similar forms of development.

In this instance the development would be served by a narrow and long access drive located in close proximity to existing properties. Consequently the incongruous layout of the proposal set

behind an existing residential linear frontage and served by a narrow and convoluted vehicular access would be at odds with the pattern of built form in the vicinity and significantly harm the character and appearance of the area, which would set a harmful precedent for other similar forms of development in the vicinity contrary to the aforementioned local and national planning policies.

Notwithstanding the concerns raised above, the indicative layout shows that the bungalows would accommodate large plots ensuring the development would maintain a spacious feel and each property would be served by ample amenity space provision. The presence of surrounding residential development and mature roadside hedges, particularly to the west, means that landscape views of the development would be limited.

Heritage Impact

The property to the east of the access and to the north of the bungalow development is a grade II listed property. The development seeks to sub-divide the rear garden of this property along with the construction of an access directly to its south. Given the potential impact upon the listed building and its setting a heritage assessment has been provided. This assessment outlines the history of the building and seeks to clarify the impact upon the setting by stating the following;

The house dates back to the 17/18th century and has a thatched roof over a timber frame weatherboarded structure. The house features an eyebrow dormer window and red brick chimney stacks. A new two storey extension with a mansard roof was added to the West end of the house in 1988. The extension is finished with plain clay tiles to the roof and rendered finished walls over a red brick plinth. The proposed access road to the planning application for 5 bungalows is routed to the North West boundary of 3 Mill Lane. The 1988 extension to 3 Mill Lane forms an architectural end to the existing house which in turn forms a natural barrier to the proposed access road.

This conclusion is supported as it is evident that the large two-storey 1980's addition on the western side of the listed property would act as a visual buffer to the development and ensures that the most important historic views of the listed building from the east would be retained. To the rear the bungalow development would be sited approximately 45m from the rear of the listed property is an area of the area previously containing a large tennis court. This area of the garden is also surrounded by housing development to the east and south and is divided off from the rest of the garden by vegetation. Consequently, the distance from the house, its single storey nature and the presence of existing housing around the site means that the development would not result in significant harm to the setting of the listed building.

Residential Amenities

The bungalows would retain sufficient spacing to the existing properties to the north and those proposed to the south to ensure there would not be an adverse impact upon amenity. The single-storey nature of the development and the presence of existing vegetation means that privacy levels are maintained.

In terms of traffic movements, whilst the access is situated in close proximity to no. 3 Mill Lane and new bungalows to the west, due to the fact that the development comprises of 5 no. bungalows the level of traffic would be low and therefore, on balance, would not cause noise and disturbance to existing residents.

Highway Considerations

Essex County Council Highways has no objections to the application subject to;

- Prior to the first occupation of the proposed dwellings, the proposed vehicular access shall be constructed to a width of 5.5m for at least the first 6m. within the site tapering one-sided over the next 6m. to no less than 3.7m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.
- No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.

- Prior to the proposed access being brought into use, vehicular visibility splays of 33m by 2.4m by 33 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.
- Prior to the first use of the proposed access, details of the construction and future maintenance of the necessary bridging or piping of the drainage ditch/watercourse shall be submitted.
- 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 which shall be retained and maintained free from obstruction thereafter.
- Prior to first occupation of the proposed development, a (communal) recycling/bin/refuse collection point shall be provided within 20m of the highway boundary or adjacent to the highway boundary and additionally clear of all visibility splays at accesses and retained thereafter.
- The development shall not be occupied until such time as a car parking and turning area has been provided in accord with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.
- Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design this shall be approved in writing with the Local Planning Authority.
- Any garage provided with its vehicular door facing the highway or proposed highway, shall be sited a minimum of 6m from the highway boundary.

These requirements can be secured via the inclusion of suitably worded planning conditions.

The indicative layout plan provided shows that each property would be served by a minimum of 2 spaces each thereby according with the requirement of the current parking standards.

Trees

The Council's Trees and Landscaping Officer provides the following comments in respect of the impact upon several Oak Trees present on the perimeters of the site;

Although at the outline stage the applicant has submitted amended plans showing the positions of the proposed dwellings. The site plan shows that the dwellings could be constructed without resulting in an incursion into the Root Protection Areas of the protected Oaks on the perimeter of the application site. In this respect the development proposal does not compromise the retention or long term viability of the protected Oaks.

If planning permission is likely to be granted then a condition should be attached to secure details of the way that the trees would be physically protected for the duration of the construction phase of the development. Any such information should be in accordance with BS5837: 2012 Trees in relation to design, demolition and construction: Recommendations.

The new access from Mill Lane seems a little convoluted however if the indicative tree planting shown on the amended indicative site plan for 5 dwellings were to be carried out then this would compensate for those trees that may need to be removed to facilitate the creation of the new access.

Public Open Space/RAMS Contributions

Paragraph 34 of the National Planning Policy Framework (2019) states that local plans should set out the contributions expected from development. In this respect Saved Policy COM6 in the Tendring District Local Plan (2017) requires that for residential development below 1.5 hectares in size, where existing public open space facilities are inadequate, 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 shall be provided. The Council's Open Space Team has commented upon the application and has confirmed that due to the lack of facilities in the area it is agreed that a contribution towards play is justified and relevant to this planning application. The comments confirm that any contribution would be used for improvements to provide additional toddler facilities at Clacton Road, Weeley.

A completed Unilateral Undertaking to provide the required financial contribution towards play provision has not been provided and the proposal is therefore contrary to Saved Policy COM6.

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a Special Protection Area must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007 and Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Other Considerations

Weeley Parish Council objects to this application for the following reasons:

1. If approved, development of this site could set a precedent for further development of the remaining area of the adjacent field.
2. The increase in traffic levels is unacceptable, especially around the bend on Clacton Road.
3. This site is outside the development boundary.
4. This proposal constitutes backland development.
5. The proposal affects the grounds of a listed property.
- 6., The site is too small for the proposed number of bungalows.
7. There is the possibility of increasing the flood risk elsewhere, as acknowledged on the application form.

4 letters of objection have been received covering the following points;

- Weeley Heath is a small rural settlement and a 5yrs supply can be identified
- Backland development and not in the settlement boundary
- Mill Lane is a designated quiet lane
- Not a safe access onto Mill Lane and poor access for refuse/emergency vehicles
- Increase in flooding
- Development would set an undesirable precedent for further housing developments in the vicinity
- Oak trees in danger of being felled.

1 letter of support has been received stating that the development should be approved as it is sustainable and classed as a windfall site.

6. Recommendation

Refusal

7. Reasons for Refusal

- 1 The application site is located outside of the Settlement Development Boundary for Weeley Heath as defined within the saved Tendring District Local Plan 2007 and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). Saved Policy QL1 of the Tendring District Local Plan (2007) seeks to direct development towards larger urban settlements defined within the Local Plan. 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.

The planning principles under paragraphs 15, 17 and 20 of the National Planning Policy Framework (2019) 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.

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 supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

With this in mind, the emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development towards the most sustainable locations. Weeley Heath is categorised in emerging Policy SPL1, along with seventeen other villages, as a 'Smaller Rural Settlement' in recognition of its size and relatively small range of local services. Weeley Heath and other smaller villages are considered to be the least sustainable settlements for growth and development should normally be restricted to small-scale development only, respecting the existing character and form of the village. Consequently the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) settlement development boundaries for Weeley Heath have been extended to accommodate the growth envisaged over the plan period. However, their extended defined boundaries do not include the proposed application site. As such the application site location is not considered to be a sustainable location for growth.

The NPPF advocates a plan-led approach that actively seeks to achieve sustainable patterns of growth. The proposed development however, due to its location outside of any defined settlement development boundary, is not considered sustainable.

- 2 Saved Policy HG13 of the adopted Tendring District Local Plan (2007) and draft policy LP8 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) relate to backland residential development. These policies require, amongst other things, that proposals for residential development of backland sites must not be out of character with the area or out of character in its particular setting. The policy also states that long or narrow accesses will be discouraged.

Saved Policies QL9, QL10 and QL11 of the adopted Tendring District Local Plan (2007) seek to ensure that new development relates well to its site and surroundings and the size, scale, design and appearance of new development are in keeping. Draft Policy SPL3 states that new development should be well designed and maintain or enhance local character and distinctiveness.

Paragraph 127 of the National Planning Policy Framework (Framework) states that planning policies and decisions should ensure that developments; will function well and add to the

overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and history, including the surrounding built environment and landscape setting and establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials.

In this instance the development would be served by a narrow and long access drive located in close proximity to existing properties. Consequently the incongruous layout of the proposal set behind an existing residential linear frontage and served by a narrow and convoluted vehicular access would be at odds with the pattern of built form in the vicinity and significantly harm the character and appearance of the area, which would set a harmful precedent for other similar forms of development in the vicinity contrary to the aforementioned local and national planning policies.

- 3 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) in particular the Colne Estuary SPA and Ramsar site, mitigation measures will need to be in place prior to occupation.

A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

- 4 Paragraph 34 of the National Planning Policy Framework (2019) states that local plans should set out the contributions expected from development. In this respect Saved Policy COM6 in the Tendring District Local Plan (2017) requires that for residential development below 1.5 hectares in size, where existing public open space facilities are inadequate, 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 shall be provided. A completed Unilateral Undertaking to provide the required financial contribution towards play provision has not been provided and the proposal is therefore contrary to Saved Policy COM6 and the National Planning Policy Framework (2019).

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 reasons for the refusal, approval has not been possible.

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	<input checked="" type="radio"/> NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	<input checked="" type="radio"/> NO