

covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

4. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

5. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the carriageway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the carriageway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative 1:

Under Building Regulations B5, access for fire tenders is required to a point not further than 45 metres from the entrance to the dwelling. Any road or private drive forming part of such a fire access must be no less than 3.7 metres wide between kerbs (this may be reduced to 3.1 metres for a gateway or similar short narrowing) and should have a minimum centre line bend radius of 6.55 metres. The access way should be capable of carrying a 12.5 tonne vehicle. A cul-de-sac which is more than 20 metres long must have a turning head of a least Size 3.

Informative 2

Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence. Therefore the applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway

Informative 3:

Any work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at: development.management@essexhighways.org or by post to:

SMO1 ' Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester.
CO4 9YQ.

3. Planning History

00/00409/FUL	To site touring caravan to complete self build - dimension 4.5m x 2m	Approved	11.05.2000
01/00713/FUL	Variation of condition 1 of 00/00409/FUL for extended period for caravan until 31st January 2002	Approved	18.06.2001
02/01046/FUL	Renewal of temporary consent to site touring caravan	Approved	19.07.2002
92/01365/OUT	(Land to rear of Malting Farm Restaurant, Farm Road, Great Oakley) Proposed demolition of existing general industrial units and outline application for residential use	Approved	23.08.1994
97/00454/DETAIL	(Land at Maltings Farm, Farm Road, Great Oakley) Access road and sewers (to serve residential developments as part of submission of detail under outline permission TEN/92/1365)	Approved	19.08.1997
97/01046/OUT	(Land rear of former Maltings Farm Restaurant, Farm Road,) Demolition of existing industrial units and redevelopment for residential use (Renewal of TEN/92/1365)	Approved	01.10.1997
98/00862/CON	Total demolition of barn/outbuildings	Approved	25.08.1998
98/01047/FUL	Erection of one detached dwelling and garages	Approved	08.09.1998
99/01179/FUL	Variation of design of house approved under TEN/98/1047	Approved	24.11.1999
10/00273/FUL	Erection of dwelling (extension of time on previously approved 06/02064/FUL).	Withdrawn	31.03.2010
18/00881/OUT	Erection of one dwelling.	Refused	27.07.2018

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN3 Coastal Protection Belt

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN17 Conservation Areas

HG1 Housing Provision

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG13 Backland Residential Development

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)

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP4 Housing Layout

LP7 Self-Build and Custom-Built Homes

LP8 Backland Residential Development

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL8 Conservation Areas

SPL1 Managing Growth

SPL3 Sustainable Design

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) 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

Site Description

The application relates to land adjacent to the north-east of Acorn Cottage, Farm Road, Great Oakley. The site measures approximately 0.1 hectares in size and currently forms part of land

adjoined to the garden area of Acorn Cottage. The character of the surrounding area is semi-rural; to the south and south-west are a number of residential properties, and to the north and east are large areas of grassed and agricultural land. The site is adjacent to, but outside of, the Settlement Development Boundary for Great Oakley within both the Saved Tendring District Local Plan (2007) and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. The north-eastern section of the Great Oakley Conservation area is located to the south of the site.

Description of Proposal

The application seeks outline consent with all matters reserved for the erection of one dwelling, which will also have a garage that will be connected via a glazed link.

History

Under planning reference 18/00881/OUT, planning permission was refused for the erection of one dwelling on this site. The reasons for this refusal were that the site fell outside of a recognised settlement boundary and that the proposed development was to be sited to the north of this pattern of development. This would result in a strong physical change in the landscape, introducing built form into the undeveloped countryside which would also set a harmful precedent for future similar applications to the remainder of the land to the north-west, north and south-east.

On land adjacent to the north-west of the site, planning permission for five dwellings was refused under planning reference 17/01109/OUT. The reasons for this were that the site fell outside of a recognised settlement boundary, would lead to an intrusion of built development into the open countryside which would set a harmful precedent for other similar developments, and that a Phase 1 Habitat Survey was not supplied.

This decision was appealed - reference APP/P1560/W/18/3196781. While the appeal was ultimately dismissed, it is important to note that the Inspector only dismissed it due to the lack of information regarding the potential impacts upon protected species. The Inspector considered the development "*would have an acceptable effect on the character and appearance of the surrounding area*" and therefore did not agree with the Council's assertion that there would be environmental harm as a result.

Assessment

1. Principle of Development

The application site lies outside of a Settlement Development Boundary as defined within the Adopted Tendring 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 2019 (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 report, 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.

Whilst it is recognised that there would be conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site being sited outside the settlement development boundary, as stated above, in the context of the 5 year housing land supply paragraph 11 d) of the NPPF requires applications for housing development to be assessed on their merits, whether sites are allocated for development in the Local Plan or not and it is important to consider whether any circumstances outweigh this conflict.

Therefore, at this present time, it is correct to assess the housing development on its merits against the sustainable development objectives set out within Paragraph 8 of the NPPF. The economic objective, a social objective and an environmental objective are therefore assessed below.

Economic:

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

Social:

Socially, it is necessary to consider the proximity of the site to destinations such as convenience shopping, education, healthcare, community halls and jobs. As stated above, Great Oakley is categorised in emerging Policy SPL1 as a 'Smaller Rural Settlement' in recognition of its size and small range of local services. Within the Established Settlement Hierarchy (2016), Great Oakley has no defined village centre, defined employment area or railway station; however it is acknowledged that it contains a primary school, GP Surgery and a good bus route. Further, the site is within walking distance of both a Public House and a convenience store. Therefore, on balance, the site is considered to perform reasonably well under the socially sustainable strand and it would be unreasonable to refuse planning permission on this basis.

Environmental:

Environmentally, it is necessary to consider the impact on the character and appearance of the countryside. The site is located in a semi-rural area; however there are examples of residential development within the immediate vicinity, particularly to the south and south-west. While concerns were raised within application 18/00881/OUT that any new development to the north of this existing pattern of development would result in a strong physical change in the landscape, thereby setting a harmful precedent, it is important to recognise comments made by the Inspector for development on land directly adjacent (appeal reference APP/P1560/W/18/3196781). Within his decision he noted the land "*does not provide an important transition from village to countryside*" and while the development represented a form of backland development "*given the proximity of similar recent development such as Maltings Grange, this would not look particularly out of keeping or set a harmful precedent.*" He then concluded by stating "*the proposed development would have an acceptable effect on the character and appearance of the surrounding area.*"

While it is acknowledged this appeal decision was in relation to land to the north-west of the site, it is a material consideration for this application given the close proximity and similarity in terms of development being proposed. The previous concerns raised within 18/00881/OUT have therefore been overcome and the environmental strand of sustainability has been met.

2. Self-Build Properties

As the application seeks permission for self-build or custom built dwellings, draft Policy LP7 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) must be considered. 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. Paragraph 79 of the NPPF states that new isolated homes in the countryside should be avoided unless there are special circumstances that warrant it. Such circumstances do not include self-build or custom-built dwellings. It is accepted that this site would not be considered isolated due to the close proximity to existing dwellings on Farm Road.

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 (addressed above) has been endorsed by the Planning Inspector as being in line with the core planning principles under paragraphs 15, 17 and 20 of 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.

This site has not been presented or considered as part of this Council's Register.

Regardless of the very limited weight that can be afforded to Draft Policy LP7, this development is not considered to meet the aims of the policy anyway as set out below.

Draft Policy LP7 states that the Council will consider, on their merits, proposals for Self-Build and Custom-built Homes on land outside of settlement boundaries, not involving the replacement of an existing dwelling, where they will still support a sustainable pattern of growth in the District unless the impacts of development would conflict with other policy requirements within the Local Plan.

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' or 'strategic rural service centres';

The application site is located approximately 4500 metres away from the edge of Harwich and Dovercourt, a Strategic Urban Settlement. The proposed dwelling exceeds the 600 metres and therefore it is considered that the proposal is not located on a site safely accessible on foot.

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

The application site is located approximately 6800 metres away from Weeley and therefore it is not considered to be located on a site safely accessible due to the lack of footpaths.

c. involve the redevelopment of vacant or redundant previously developed land that can be shown, with evidence, to be unviable for employment use."

The application site is not currently for employment use and therefore this is not relevant.

The Publication Draft Plan does not define, or distinguish between, 'Self-built' and 'Custom-built' homes but at 5.7.1 the supporting text refers to '... individual properties of bespoke and innovative architectural design, larger more spacious properties for the higher end of the market and self-built 'grand designs'.

Finally, the adverse environmental impacts from the development in conflict with Saved Policy QL9 and EN1 as set out above means that the development also fails to comply with other policy requirements within the Local Plan.

The additional information received from the Applicant in support of their application and in response to the consultee comments from the Policy Team have been taken into account. Regardless of the merits of the application failing to meet the policy, the status of Draft Policy LP7 means that a refusal based on this policy is not required at this time.

3. Backland Development

The development involves the construction of one dwelling in a 'backland' location to the rear of the established residential frontage along Farm Road. With regards to Policy HG13 of the 2007 Local Plan (and echoed in policy LP8 of the draft Local Plan), it states proposals for the residential development of backland sites must comply with the following criteria:

- i. the site lies within a defined settlement development boundary and does not comprise land allocated or safeguarded for purposes other than a residential use;
- ii. where a proposal includes existing private garden land which would not result in less satisfactory access or off-street parking arrangements, an unacceptable reduction in existing private amenity space or any other unreasonable loss of amenity to existing dwellings;
- iii. a safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will be discouraged;
- iv. the proposal does not involve "tandem" development using a shared access;
- v. 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;
- vi. the site is not on the edge of defined settlements and likely to produce a hard urban edge or other form of development out of character in its particular setting; and
- vii. the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development.

The main problems that can arise as a result of backland development include undermining the established character of an area (especially if similar schemes were to be repeated elsewhere in a locality); dwelling plots appearing cramped relative to their surroundings; the fragmentation of established gardens with a loss of mature landscaping; and the infringement of neighbouring residents' amenities. Development behind an established building line can also appear incongruous, particularly with isolated dwellings.

There must also be proper means of access to backland development, which is safe and convenient for both drivers and pedestrians, with a turning area where necessary to avoid the need for vehicles to reverse onto a public highway. A proposed access should avoid excessive disturbance or loss of privacy to neighbouring residents through, for example, an access drive passing unreasonably close to an adjoining dwelling. The likely frequency of use by vehicular traffic and the suitability of the access for service vehicles and the emergency services will also be relevant material considerations.

In respect of the policy criteria noted above the development is considered to meet the requirements as follows;

- (i) - the site is not within the defined settlement boundary in both the saved and emerging local plans, but is not designated for any particular use;

(ii) - the proposed dwelling is to be located within the extended garden area of Acorn Cottage; however the site is of a significant size that would be able to comfortably accommodate the necessary parking and provide the necessary private amenity requirements in excess of 100sqm for both the new dwelling and for Acorn Cottage.

(iii) - the private access would be located to the rear of Acorn Cottage, and therefore any vehicle movement relating to the new dwelling will impact upon their amenities. However, the comings and goings relating to one dwelling are not considered to cause undue noise and disturbance, whilst Essex Highways Authority have raised no objections.

(iv) - whilst the access will be shared, the layout does not indicate 'tandem development'.

(v) - the site is of a relatively regular shape and would not compromise a more comprehensive development solution.

(vi) - the development of the site would not form a hard urban edge to the settlement as the land is surrounded by residential development on all sides.

(vii) - There are a number of residential properties forming the Great Oakley settlement adjacent to the south/south-west. While there were previous concerns the site being located to the north of this existing pattern of development would appear out of character with the surrounding land and set a harmful precedent for further development to the north, north-west and south-east, the recent appeal decision reference earlier within the report has confirmed development in this location would be acceptable against this criterion.

4. 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 application is in outline form with all matters reserved and therefore detailed plans do not form part of the determination of this application, and as such no elevational drawings have been submitted. Design within any future application should look to be in-keeping and not detrimental to the character of the surrounding area.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of one bedroom should be a minimum of 50 square metres, for a dwelling of two bedrooms should be a minimum of 75 square metres and for a dwelling of three bedrooms or more should be a minimum of 100 square metres. The information that has been supplied does not indicate the number of bedrooms; although there is sufficient space within the site to ensure there will be enough private amenity space for the proposed dwelling.

5. Coastal Protection Belt

Policy EN3 of the Tendring Local Plan 2007 states new development which does not have a compelling functional need to be located in the Coastal Protection Belt will not be permitted. Further, even where a compelling functional need is demonstrated, the development should not significantly harm the landscape character and quality of the undeveloped coastline.

The site falls within a Coastal Protection Belt along with large areas of undeveloped land to the south, east and south-east. However, due to the close proximity of the site to the existing settlement and that there is existing screening along Farm Road the harm of one additional dwelling is not considered to significantly harm the character of the undeveloped coastline.

6. Heritage Impact

Policy EN17 of the Adopted Local Plan states that development within a Conservation Area must preserve or enhance the character or appearance of the Conservation Area. The sentiments of this policy are carried forward within Policy PPL8 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The application site lies partly within the Great Oakley Conservation Area but the vast majority falls adjacent, with only the edge of the vehicular access falling within. As such a Heritage Statement is not required on this occasion, however the site is clearly within a sensitive location and the impacts of the proposal to the Great Oakley Conservation Area are still a consideration of this application.

As highlighted above, the submitted plans do not provide any detailed elevational drawings; however subject to a future design of traditional appearance in-keeping with the existing built form, there is not considered to be detrimental harm to the existing conservation area.

7. Residential 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).

Whilst the application is in outline form with all matters reserved, Officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties or the future occupiers of the proposed dwellings.

8. Highway Safety and Parking

Essex County Council as the Highway Authority has been consulted on the application and has stated that they have no objections subject to conditions relating to the provision of a car parking and turning area and the storage of building materials.

Whilst conditions were also requested for the storage of bicycles and the submission of a Residential Travel Information Pack, there is sufficient space on the site to account for this and the proposal is not for a major development, and therefore it would not be reasonable to impose these conditions.

Furthermore, the Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. There is considered to be sufficient space to accommodate this with any future detailed application.

9. Tree Impacts

The application site is set to grass with early mature trees, which provide a pleasant parkland feel but the trees themselves are of low visual amenity value due to the lack of visibility from the public realm. The development would necessitate the removal of three fully mature trees; a Cedar, a Willow and a Field Maple. None of these have sufficient amenity value to warrant protection by means of a tree preservation order. Further a conifer hedge on the north-western boundary may need to be drastically reduced in size or removed, however does not fall under the scope of the legislation under which it can be formally protected and can also be considered an incongruous feature in the setting. Therefore, there is not significant harm to the existing trees on site, and subject to a condition to secure a soft landscaping scheme the development can be achieved satisfactorily.

10. 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".

There is currently a deficit of -0.76 hectares of equipped play in Great Oakley, however there is adequate provision in terms of formal open space. Due to the limited play provision in Great Oakley a contribution is both relevant and justified to this application, with the money to be spent at the nearest play area at Orchard Close, Great Oakley.

A completed unilateral undertaking has been provided to secure this legal obligation and to ensure compliance with saved policy COM6.

11. Habitats Regulation Assessment

Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.

Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be the RAMS level contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites. The contribution is secured by unilateral undertaking. There is therefore certainty that the development would not adversely affect the integrity of European Designated Sites in accordance with 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.

Other Considerations

Great Oakley Parish Council have not commented.

There have also been nine letters of objection received, including one from the local ward member, with the following concerns:

1. Site is outside of a settlement boundary;
2. Site is located within a Coastal Protection Belt;
3. Is a form of backland development;
4. Sets a dangerous precedent;
5. There is a legal agreement preventing development / access ownership; and
6. Will result in over-development.

In answer to this, points 1, 2, 3, 4 and 6 have been addressed within the main body of the report above. With regards to point 5 the applicant has confirmed in their application form that they maintain ownership of the site in question; if this is disputed this is a legal issue aside from planning regulations.

6. Recommendation

Approval.

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 The development hereby permitted shall be carried out in accordance with the following approved plans, the untitled Site Location Plan and drawing number 1728-BP-01 Rev A.

Reason - For the avoidance of doubt and in the interests of proper planning.

- 5 The dwelling shall not be occupied until such time as the vehicle parking area indicated on the block plan, has been surfaced and sealed. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the dwelling unless otherwise agreed with the Local Planning Authority.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety.

Informatives

1. 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.

2. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the carriageway.

3. Legal Agreement Informative - Open Space/Play Space Contribution

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Public Open Space financial contribution in accordance with Policy COM6 of the adopted Tendring District Local Plan (2007) and Policy HP5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

4. Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.