

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	17/06/19
Planning Development Manager authorisation:	AN	20/6/19
Admin checks / despatch completed	EX	20/6/19

**Application:** 19/00467/FUL **Town / Parish:** Ardleigh Parish Council

**Applicant:** Mr Bender - Alan Bender Limited

**Address:** Land adjacent Fernview Turnpike Close Ardleigh

**Development:** Erection of 5no. detached dwellings and garages with access.

### **1. Town / Parish Council**

Ardleigh Parish Council  
Ardleigh Parish Council object to this planning application on the grounds that the site falls outside the settlement development boundary (SDB) and the emerging TDC local plan restricts new housing to areas within the SDBs.

There is no requirement for further detached housing in this area and as the 5 year housing supply is met then new housing should be restricted to identified development sites.

Furthermore this site falls within the very rural settlement of Crockleford Heath which is a considerable distance from Ardleigh and which make the site one of the least sustainable rural areas.

Permission for 3 houses on this site was refused (17/00646/Out refers).

### **2. Consultation Responses**

ECC Highways Dept  
(Original Comments)

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 occupation of the development, the site will be provided with a single shared access providing clear to ground visibility splays of 2.4 metres by 43 metres in both directions as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

2. Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Footway and provided with an appropriate dropped kerb crossing of the footway/verge.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

3. Prior to occupation of the development all vehicular parking and turning facilities shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

4. 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 in accordance with policy DM1.

5. Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

6. Any single garages should have a minimum internal measurement of 7m x 3m  
Any double garages should have a minimum internal measurement of 7m x 6m

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8.

7. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, 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.

8. 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.

9. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway/carriageway (delete as appropriate).

Reason: To ensure that appropriate loading / unloading facilities are

available to ensure that the highway/carriageway (delete as appropriate) 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: In relation to the second access proposed on the side road that eventually goes under the A12 bridge; there is evidence of 'on street' parking that occurs along this stretch of road that could compromise the visibility splay of the second access.

Informative 2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 3: The (rural/remote) location of the site is such that access to key facilities, public transport, employment and leisure opportunities is limited and for the vast majority of journeys the only practical option would be the car. This should be taken in to consideration by the Planning Authority when assessing the overall sustainability and acceptability of the site.

Informative 4: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall 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](mailto:development.management@essexhighways.org) or by post to:

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

ECC Highways Dept  
(Comments following amended plans to reduce scheme to 5 dwellings)

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653 The Crescent,  
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CO4 9YQ

### **3. Planning History**

N/A

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

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

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)

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP4 Housing Layout

CP1 Sustainable Transport and Accessibility

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SP1 Presumption in Favour of Sustainable Development

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 (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.

## **5. Officer Appraisal**

### **Site Description**

The application site measures approximately 0.45 hectares in size situated at the junction of Old Ipswich Road (also known as Turnpike Close) and the underpass beneath the A12. The site itself is currently flat with strong planted boundaries. The surrounding area is semi-rural in nature; there are examples of residential properties located on spacious plots in the immediate surrounds, however further out the character is far more rural with large open grassed and agricultural land.

Turnpike Close comprises of a variety of house types on generally generous plots along each side to the road in a linear pattern. There are a number of commercial enterprises operating from sites at the southern end of the Close.

The site is outside of the Settlement Development Boundary as defined by the adopted Tendring District Local Plan 2007 and the Tendring District Local Plan Publication Draft June 2017.

### **Description of Proposal**

This application seeks full planning permission for the erection of five detached residential dwellings. The dwellings are to each be two storey, with all plots except plot three being served by four bedrooms. Plot three will be served by five bedrooms.

The original plans were for six detached dwellings; however Officers raised concerns that the development would appear too cramped in this location and accordingly revised plans were submitted.

## Site History

Under planning reference 17/00646/OUT, planning permission was originally refused for three dwellings on this site. The reason for this refusal was the site lied outside of a settlement development boundary, considerable distance from Ardleigh, and was therefore considered to be within a rural location.

However, under appeal reference APP/P1560/W/17/3187651, this decision was allowed. The Inspector felt the Council was unable to demonstrate a five year housing land supply, and while there would be some limited harm in that the pedestrian route to the nearest shops and services would not be attractive for all future occupiers, this harm was outweighed by the benefits of the proposal.

## 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. However, under appeal reference APP/P1560/W/17/3187651, dated 27 April 2018, it was concluded that this site was a sustainable location for residential development, with the Inspector concluding the following:

*"The provision of three homes would make a contribution, albeit modest to the District's housing stock, and the development would therefore have moderate social and economic benefits both during the construction phase and on occupation, which weigh in favour of the proposal. Moreover, even if the housing land supply shortfall is only marginal, the limited harm arising from perceived barriers to pedestrian access would not significantly and demonstrably outweigh the benefits of the proposal. Consequently I find that the development would be acceptable and material considerations, including the Framework, indicate that planning permission should be granted for development not in accordance with the development plan."*

The principle of residential development in this location has therefore previously been established, and is therefore acceptable subject to the detailed considerations below.

### 2. Layout, Design 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 in its original form was for six detached dwellings. However, Officers considered this development would appear cramped in an area principally dominated by more open and larger plots. Therefore, the scheme was reduced to five dwellings. The amended layout for five dwellings demonstrates there is sufficient separation distances between each plot, ensuring it will assimilate well within the surrounding area. The layout shows three dwellings to address the western elevation and two to the southern elevation. While there is no pattern of development to the south to adhere to, the three dwellings fronting Turnpike Close to the west will obey the relatively strong building line created to the north and south.

The dwellings will each be two storeys. While Turnpike Close is not densely populated, there are examples of single and two storey properties. Given this there is no principle objection to the proposed two storey properties. In terms of the design, it is noted there is a variety of features spread across the overall development that will reduce the bulk of the dwellings. Features including chimneys, front gables, dormers, canopies and a mixture of materials will all soften the appearance of the development. Therefore the design is considered to be good and entirely appropriate within its setting.



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 100sqm. The submitted plans demonstrate that this is comfortably achieved for all five 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 properties located to the north and south of the site. However, these are located approximately 16m and 25m apart respectively. Given these significant separation distances the proposed dwellings will neither appear imposing nor result in loss of light. Further, the only first floor side elevation window to Plot 1 that could potentially overlook the neighbour to the north is served by a landing, which is not a main habitable room. While there are first floor front elevation windows to Plots 4 and 5 that have views to the neighbouring property to the south, there is a 25m separation distance and existing vegetation that will significantly reduce any impacts.

In terms of the impacts between future occupiers of the dwellings, there is good separation between all of the plots, thereby limiting overlooking potential. Given this, and that all future occupiers will be aware of the situation prior to occupation it is not considered there is sufficient harm to future amenities to warrant a reason for refusal.

### 4. Tree Impacts

The main body of the application does not contain any trees or other significant vegetation.

However, both the southern and eastern boundaries of the application site benefit from screening provided by existing trees and hedgerows. The screening on the eastern boundary is not on land under the control of the applicant and appears to be on the embankment of the A12. Therefore on land that forms part of the highway network.

The boundary vegetation on the western boundary and described in the tree report submitted with the application has been cut and removed to such a point that it no longer acts as a screen. The remaining stems are Elm with a limited life expectancy.

In order to assess the extent to which the trees are a constraint on the development of the land and to identify the way that retained trees would be physically protected should planning permission for development be granted the applicant has provided a Tree Survey and Report. The report accurately describes the health and condition of the trees and shows the extent of the constraint that they exert on the development potential of the land.

The tree with the greatest amenity value is the Oak close to the south western corner of the application site and marked as T1 of the tree report. In this respect the extant consent to develop the land by the construction of three dwellings was considered unlikely to cause harm to the tree, however the intensification of the development proposal means that there is a greater chance of harm being caused to the tree.

Therefore, in order to secure the long terms retention of the tree, to ensure that it is physically protected duration the construction phase of any development that may be granted planning permission and to deal with post development pressures a new Tree Preservation Order has been made to afford the tree formal legal protection.

Conditions will be attached to secure details of the physical protection of retained trees and of new soft landscaping to soften and enhance the appearance of the development.

## 5. Highways Impacts

Essex Highways Authority have been consulted and have stated they have no objections to the scheme subject to a number of conditions relating to visibility splays, the width of the access points, vehicular and parking facilities and the use of no unbound materials.

Further conditions requesting cycle parking provision and a Residential Travel Information Pack were requested; however due to the plots being of a sufficient size to accommodate cycle parking and it being a minor development, it would not be reasonable to request these conditions.

Further, Adopted Car Parking Standards state that there should be minimum parking provision for a dwelling with two or more bedrooms for two parking spaces measuring 5.5m x 2.9m or, if being relied upon for one of the parking spaces, a garage should have minimum internal measurements of 7m x 3m. The plans submitted demonstrate that the proposed garages in accordance with the above measurements, while there is also sufficient space for the required additional parking for all of the proposed dwellings.

## 6. Biodiversity

The agent for the application has submitted a Phase 1 Habitat Survey. Within this survey it states that the habitats on site were assessed to be low value to biodiversity, and that any loss of biodiversity can be enhanced with mitigation measures. A condition to ensure these measures are adhered to will be attached to this decision.

## 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".

There is currently a deficit of -1.70 hectares of equipped play in Ardleigh, with the recently renovated play area next to the primary school in Colchester Road approximately 2 miles the nearest to the application site. However, due to the remote location of the development to the play and open space, it is unlikely these facilities will see a significant impact and therefore no contribution is required on this occasion.

## 8. 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

Ardleigh Parish Council object to the application as the Council is able to demonstrate a five year housing supply and the site is not located in a sustainable location.

In answer to this the principle of development has previously been accepted on this site by the Planning Inspectorate, as explained in more detail within the main body of the report above.

### Conclusion

Following a previous appeal decision on this site for three dwellings, the principle of development has been established. The scale of development, following a reduction to five dwellings, is considered to be acceptable in this location, while the scheme results in no harm to neighbouring amenities, trees or highway safety. A legal agreement has been completed for a RAMS contribution, and therefore the application is recommended for approval.

## **6. Recommendation**

Approval.

## **7. Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans, drawing numbers 01, 03G, 04D, 05D, 06D, 08D, 10E, 11D, 07C, 09C, 12D and the document titled 'Phase 1 Habitat and Protected Species Survey'.

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

- 3 No development shall take place until the existing trees on the site, agreed with the Local Planning Authority for inclusion in the scheme of landscaping, have been protected by the erection of temporary protective fences of a height, size and in positions which shall previously have been agreed, in writing, with the Local Planning Authority. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected. Any trees dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with trees of appropriate size and species during the first planting season, or in accordance with such other arrangement as may be agreed in writing with the Local Planning Authority, following the death of, or severe damage to the trees.

Reason - To ensure the protection of the retained trees on site.

- 4 Prior to the commencement of any above ground works, a scheme of hard and soft landscaping works for the site shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction.

Reason - To enhance the visual impact of the proposed works.

- 5 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting

season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason -To enhance the visual impact of the proposed works.

- 6 The recommendations as highlighted within Section 6 of the submitted Phase 1 Habitat and Protected Species Survey shall be implemented prior to occupation of the dwelling and maintained in perpetuity thereafter.

Reason - In order to enhance the development of the site for local wildlife.

- 7 Prior to occupation of the development, the site will be provided with a single shared access providing clear to ground visibility splays of 2.4 metres by 43 metres in both directions as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety.

- 8 Prior to the occupation of any of the proposed dwellings, the proposed private drives shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Footway and provided with an appropriate dropped kerb crossing of the footway/verge.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

- 9 Prior to occupation the vehicular parking and turning facilities serving each plot shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

- 10 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.

## **8. Informatives**

### **1. Positive and Proactive Statement**

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

### **2. Highways Informatives**

In relation to the second access proposed on the side road that eventually goes under the A12 bridge; there is evidence of 'on street' parking that occurs along this stretch of road that could compromise the visibility splay of the second access.

On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

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All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

### 3. 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.