

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	27/06/19
Planning Development Manager authorisation:	AN	4/7/19
Admin checks / despatch completed	m	5/7/19

SB

05/07/19

Application: 19/00625/OUT **Town / Parish:** Great Bromley Parish Council

Applicant: Mr Roger Hollington

Address: Land West of Former Balls Green Methodist Chapel Chapel Lane Great Bromley

Development: Proposed erection of three bedroom detached bungalow with detached garage.

1. Town / Parish Council

Great Bromley Parish Council

Great Bromley Parish Council objects to this application for the following reasons:

- Poor access
- Sewage siting too close to property
- Drainage / flooding concerns
- Highways safety
- Construction practices
- Ecology
- Powerlines
- Query re ownership of entire site - footpath query
- Previously rejected by Planning Inspector re16/01531/OUT.

2. Consultation Responses

ECC Highways Dept

The information that was submitted in association with the application has been fully considered by the Highway Authority. The proposal is located off Chapel Lane which is a single track road and a no through road. The proposal offers adequate off road parking and turning, therefore:

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 a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1.

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

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

3. Prior to occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 3.6 metres (3 metres minimum - 4.5 metres maximum), shall be retained at that width for 6 metres within the site.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.

4. Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority 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.

5. Any single garage should have a minimum internal measurement of 7m x 3m

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.

6. The public's rights and ease of passage over public footpath no. 166_8 (Great Bromley) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way (PROW) and accessibility in accordance with Policies DM1 and DM11.

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: It would be advisable for the applicant to get a Highway Status search to determine the extent of highway rights (i.e. a plan with the width of the PROW coloured in). Although their proposed vegetation clearance would probably improve what is there on the ground now, it is often the case that an historic width applies (e.g. boundary to boundary) that would limit where they situate their fence etc. To obtain this information they can request this from Essex Highways via: Highway.Status@essexhighways.org

Informative 2: There shall be no discharge of surface water onto the Highway.

To prevent hazards caused by water flowing onto the carriageway and to avoid the formation of ice on the highway in the interest of highway safety.

Informative 3: 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 or by post to:

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

Essex County Council
Heritage

The application is for proposed erection of a three bedroom detached bungalow with detached garage.

There are at least two heritage assets relevant to this application.

The Thicketts is a Grade II listed building (List Entry ID: 1308664) and the adjacent former Methodist Chapel is considered a 'non-designated heritage asset' with regard to the NPPF.

The proposal site is located within the setting of these two heritage assets.

Whilst there may be potential for development within the site, I do not support this application in its current form.

As required by paragraph 189 of the NPPF a Heritage Statement should be provided with the application which considers the setting of these heritage assets. This should ideally consult Historic England Guidance The Setting of Heritage Assets.

I also have concerns that this is an outline application. Given the sensitive location of the site, this may be better considered as a detailed application (if the principle of development was found acceptable after further assessment) to demonstrate the appropriateness of the proposed building's design in the setting of these heritage assets in terms of scale, mass, height and form.

In its current form, there is a potential adverse impact upon the setting of these heritage assets and this harm could be considered under paragraphs 196 and 197 of the NPPF.

3. Planning History

00/01706/OUT	Proposed residential plot for one detached dwelling	Refused	19.06.2001
16/01531/OUT	Erect three bedroom detached bungalow, with detached garage, and lay out parking and amenity areas.	Refused	07.12.2016

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

EN6A Protected Species

EN11A Protection of International Sites: European Sites and Ramsar Sites

EN23 Development Within the Proximity of a Listed Building

HG1 Housing Provision

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

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

CP1 Sustainable Transport and Accessibility

LP1 Housing Supply

LP4 Housing Layout

PPL4 Biodiversity and Geodiversity

PPL9 Listed Buildings

SPL1 Managing Growth

SPL3 Sustainable Design

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

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

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

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

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the 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 site is located on the northern side of Chapel Lane in the hamlet of Balls Green. The site is located outside of any Settlement Development Boundary in both the Adopted and Emerging Local Plans, and is located between Hare Green to the north and Frating to the south. Upon the initial site inspection, the site was overgrown, however since then it has been cleared, with the hedgerows cut back to the boundary. To the west is a detached bungalow and to the east is a converted Methodist Church now utilised as a residential property. A Public Footpath runs from Chapel Lane northwards within the application site and connects to Chapel Cut, which serves properties to the north-west. Across the site run electricity cables set at a height of 8.5m.

Description of Proposal

This application seeks outline planning permission for the erection of a 3 bedroom detached bungalow on the site. All matters are reserved apart from access.

An indicative layout plan has been provided which shows the bungalow being sited within the eastern section of the site to allow for clearance for the electricity cables. A detached garage is shown to the western side of the plot with parking to the driveway also.

Site History

Under planning reference 16/01531/OUT, outline planning permission with all matters reserved bar access was refused. The reason for refusal was on the grounds that the site was located outside of a settlement boundary and was not considered to meet the social strand of sustainability.

This application submitted is identical to that previously refused. Within the Planning Statement provided, the agent for the application has sought to overcome the earlier concerns, as will be addressed in more detail below.

Assessment

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:

With regard to the social dimension, this means supporting strong, vibrant and healthy communities by supplying the housing required to meet the needs of present and future generations and creating a high quality environment with accessible local services.

Following the previous refusal on this application site, the agent for the application has submitted details relating to appeal decision APP/P1560/W/15/3014909 (Land north of Tokely Road, dated 13 January 2016), and in particular has highlighted that the Inspector stated the following before concluding the development was acceptable.

"The village itself has relatively limited day to day facilities, with a village hall, two pubs, a tile shop and a car garage. Future occupants of the proposed dwellings would need to travel to Elmstead Market, approximately 4km away, or Great Bentley, about the same distance away, to access day to day shopping and services. This would be beyond a reasonable walking distance of the site. These facilities would be within a practical distance for cycling, along relatively quiet roads, although I accept this would not be suitable for all.

The village has been identified by the Council as having good accessibility, based on its location along the Colchester to Clacton bus corridor, and Bus stops with shelters and signage are less than 200m from the site. The centres of Colchester and Clacton are approximately 30 minutes away by bus, via the No 76 and No 77 services. This would provide access to job opportunities and travel for school, shopping and leisure. There was some discussion at the hearing of the future operation of the bus network in the county given that Essex County Council (ECC) is reviewing the routes. The No 76 commercial route has been cancelled, but is subsidised by ECC until April 2016. It is fair to say that there is a level of uncertainty as to the future of the existing routes, but as it is a key public transport corridor for the district there is no reason to suggest that both routes would be removed. Consequently, although most journeys for convenience shopping and local services would be likely to be made by the private car, there are options for travel by cycle or bus.

A core principle of the Framework is for development to make the fullest possible use of walking, cycling and public transport, focussing significant development in locations which are or can be made sustainable. However, I am mindful that the Framework also indicates at paragraphs 29 and 55 that opportunities to maximise sustainable transport solutions will vary from urban to rural areas, and a higher proportion of journeys by car may be expected within rural areas. Furthermore, development in one village may support services in nearby centres."

However, it is important to initially note that this development was for a much larger scheme of 49 dwellings, and was also located 750 metres to the south, adjacent to the Settlement Development Boundary for Frating. Further the Inspector also stated "The provision of up to 49 new dwellings within a district with an acknowledged shortfall would boost significantly the supply of housing, as required by paragraph 47 of the Framework, and I have given this significant weight." This application is merely for one dwelling, and therefore the significant weight the Inspector gave to the boost in housing supply is not relevant to this application.

The application site is located in a small hamlet known as Balls Green in between Frating to the south and Hare Green to the north. As identified in the Council's "Establishing a Settlement Hierarchy" study (April 2016), Balls Green, Hare Green and Frating are amongst the lowest scoring settlements. None of the closest settlements have a school, GP, railway station or shopping facilities. Only Frating is situated on a good bus route that links Clacton and Colchester. The site also does not link to nearby settlements through good levels of footpaths and street lighting. Consequently, it is concluded that the majority of trips, including those for day-to-day needs, would need to be made by car to access essential services and facilities. Therefore the proposed development fails to adhere to the social strand of sustainability.

Environmental:

Environmentally, it is necessary to consider the impact on the character and appearance of the countryside. The site has recently been cleared and comprises of low level vegetation. The rear and eastern boundaries of the plot are enclosed by mature hedging and several large trees. To the east of the property in a set back location is a converted Methodist church and directly to the west is a 1970's bungalow. The lane itself is rural in character and enclosed by mature hedging to its southern side, however on its northern side it is populated by several dwellings and outbuildings of varying size and design. Consequently, a detached bungalow located on the northern side of the lane set against the backdrop of the Methodist chapel building to the north would not represent an

unacceptable intrusion in open countryside. The vegetation present on the boundaries of the plot would also assist in softening views of the development along the lane.

Consequently the development would not adversely impact upon the rural character of the lane and is considered to be environmentally sustainable.

2. Design, Layout and Appearance

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

The indicative layout provided shows that the bungalow would retain ample space to the side boundaries of the plot and be served by a large private amenity space in accord with saved policy HG9, which requires 100sqm. The only matter being assessed at this stage is the access, which is shown at the eastern end of the plot adjacent to the Public Right of Way. The plans show that the PROW would retain a 2m width throughout the plot.

The indicative plans demonstrate that a single property could be located on the plot in a manner that would not be detrimental to the character and appearance of the rural lane.

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).

The plans show that the bungalow would retain sufficient spacing to adjacent properties not to cause any loss of light or outlook matters to arise. The single storey nature of the building means that it is unlikely any overlooking concerns will arise at the detailed stage.

4. Highway Considerations

Essex County Council Highways have no objections to the development subject to conditions relating to visibility splays, the use of no unbound materials, the width of the access, a vehicular turning facility, and that the public footpath shall be maintained free and unobstructed at all times.

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.

5. Heritage Impact

Paragraph 189 of the National Planning Policy Framework (2019) states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.

Paragraph 196 of the National Planning Policy Framework (2019) states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset,

this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraph 197 of the National Planning Policy Framework (2019) states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Policy EN23 of the Adopted Plan states that development within the proximity of a Listed Building that would adversely affect the setting of a Listed Building, including group value and long distance views, will not be permitted. The sentiments of this policy are carried forward within policy PPL9 of the Emerging Plan.

The application site is located approximately 25 metres to the south-east of Thickets, a Grade II Listed Building, but is also located adjacent to the south-west of the former Methodist Chapel, which is considered to be a non-designated heritage asset.

In this instance a heritage statement has not been provided, and therefore a full assessment of the buildings' significance has not been provided. Therefore the proposal is not compliant with Paragraph 189 of the National Planning Policy Framework (2019).

The Council's Historic Environment consultant has also objected on the grounds that as the proposal is within a sensitive location, a detailed application would be more appropriate and could assess the proposed scale, mass, height and form in the context of the surrounding heritage assets. Currently there is a potential adverse impact on the setting of the two buildings. No objection has been raised over the principle of development however. Therefore, given that a future detailed application could provide a development that is entirely appropriate within this setting, it would not be reasonable to object on these grounds. Any reserved matters submission would have to demonstrate that it preserved the setting of the two heritage assets.

6. Tree and Landscape Impacts

An assessment of the trees on the land reveals that they do not merit formal legal protection by means of a tree preservation order. The contribution that they make to the amenities of the locality could be relatively easily replicated by new planting.

The boundary of the application site with the highway is demarcated by an established hedge comprising of Hawthorn. The submitted plans show that the hedge is to be retained and strengthened by new planting. The contribution that the hedgerow makes to the appearance of the public realm and the benefit that it provides for screening could be relatively easily replicated by replacement planting.

Therefore, subject to a condition for soft landscaping, particularly on the perimeter of the site and adjacent to the Public Right of Way, there is not considered to be harm to the existing trees or landscape.

7. Biodiversity

Upon the initial site visit, the site was identified as overgrown. Given that there was the potential for protected species to be occupying the site a Phase 1 Habitat Survey was requested. However, before this was able to be actioned the site was cleared by the applicant, thereby removing that potential. Therefore a Phase 1 Habitat Survey is now not required.

8. 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 -1.15 hectares of equipped play in Great Bromley, with the nearest play area located along Harwich Road, approximately 2.1 miles away. Due to the distance from the development site to the nearest play area it is not considered there will be a significant impact on the existing facilities. Therefore no contribution is being requested on this occasion.

9. Habitats Regulation Assessment

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 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.

Other Considerations

Great Bromley Parish Council have objected to the proposal for the following reasons:

1. Poor access;
2. Drainage concerns;
3. Highway Safety;
4. Ecology issues; and
5. Previously refused same application.

In answer to this, points 1, 3, 4 and 5 have been addressed within the main body of the report above. With regards to drainage concerns the applicant has confirmed within the application form that surface water will be disposed of via soakaway.

Two letters of objection have also been received, with the following concerns:

1. Site is outside of a settlement development boundary;
2. Highway impacts;
3. Poor access to site;
4. Previous applications have been refused on the site;
5. Applicant does not live locally; and
6. Flooding issues.

In answer to this, points 1, 2, 3 and 4 have been addressed within the main body of the report above. In answer to point 6, the site is not located within a recognised flood zone and this can therefore not be given any weight in the determination of this application.

6. Recommendation

Refusal - Outline

7. Reasons for Refusal

- 1 The application site lies outside of any defined settlement development boundary within the adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

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.

With regard to the social dimension, this means supporting strong, vibrant and healthy communities by supplying the housing required to meet the needs of present and future generations and creating a high quality environment with accessible local services.

The application site is located in a small hamlet known as Balls Green in between Frating to the south and Hare Green to the north. As identified in the Council's "Establishing a Settlement Hierarchy" study (April 2016), Balls Green, Hare Green and Frating are amongst the lowest scoring settlements. None of the closest settlements have a school, GP, railway station or shopping facilities. Only Frating is situated on a good bus route that links Clacton and Colchester. The site also does not link to nearby settlements through good levels of footpaths and street lighting. Consequently, it is concluded that the majority of trips, including those for day-to-day needs, would need to be made by car to access essential services and facilities.

In applying the NPPF's presumption in favour of sustainable development, the adverse impacts of the proposal on the Council's ability to manage growth through the plan-led approach, are not outweighed by the benefits. The poor sustainability credentials of the site in terms of the social role and the fact that the development is contrary to the aims of the settlement hierarchy results in the proposal being contrary to the above mentioned policies.

For the reasons set out above the proposal is considered to fail the social objective. This together with the conflict with Saved Policy QL1 of the adopted plan and emerging Policy SPL1 amounts to an unsustainable form of development.

- 2 Paragraph 189 of the National Planning Policy Framework (2019) states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.

Policy EN23 of the Adopted Plan states that development within the proximity of a Listed Building that would adversely affect the setting of a Listed Building, including group value and long distance views, will not be permitted. The sentiments of this policy are carried forward within policy PPL9 of the Emerging Plan.

The application site is located approximately 25 metres to the south-east of Thickets, a Grade II Listed Building, but is also located adjacent to the south-west of the former Methodist Chapel, which is considered to be a non-designated heritage asset.

In this instance a heritage statement has not been provided, and therefore a full assessment of the buildings' significance has not been provided. Therefore the proposal is not compliant with Paragraph 189 of the National Planning Policy Framework (2019).

- 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 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.

8. Informatives

Positive and Proactive Statement

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