

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
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Planning Development Manager authorisation:	AN	5/9/19
Admin checks / despatch completed	XHE	06/09/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	GA	6/9/19

Application: 19/00289/FUL **Town / Parish:** Mistley Parish Council

Applicant: Mr and Mrs R Rawlinson

Address: Park Lodge New Road Mistley

Development: Erection of four dwellings.

1. Town / Parish Council

Mistley Parish Council

At its Meeting on the 21st March 2019 the Planning Committee of the Parish Council consider that this application should be Refused on the grounds of it constituting over-development of the site, loss of amenity to neighbouring properties, the scale and design are not sympathetic and does not enhance the conservation area, the adverse impact on the Grade II listed property in this area, the loss of light and amenity to neighbouring dwellings, highway and parking concerns, (including insufficient access for emergency vehicles), the area is outside of the village envelope and constitutes back-land development. The application should be "called in" and considered by the LPA's Planning Committee.

2. Consultation Responses

Essex County Council
Archaeology

The above planning application has been identified as having the potential to harm designated and non-designated heritage assets with archaeological interest.

The site lies within the Conservation Area which includes the historic settlement and historic house and parkland at Mistley. Immediately to the south of the development the land was formerly part of the parkland for Mistley Hall in the late 1800's. To the south aerial photographic evidence indicates the route of a Roman road which ran to Colchester. In the surrounding area the EHER records a number of cropmark features including ring ditches and enclosures which may be prehistoric in origin. There is potential for evidence associated with the historic settlement and possibly earlier to survive which will be impacted upon by the proposed development.

The following recommendations are made in line with the Department for Communities and Local Government National Planning Policy Framework:

RECOMMENDATION: A Programme of Archaeological evaluation

1. No development or preliminary ground-works can commence until a programme of archaeological evaluation has been secured and

undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority. Following the completion of this initial phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ, shall be submitted to the local planning authority.

2. No development or preliminary groundwork can commence on those areas of the development site containing archaeological deposits, until the satisfactory completion of archaeological fieldwork, as detailed in the mitigation strategy, which has been signed off by the local planning authority.

3. Following completion of the archaeological fieldwork, the applicant will submit to the local planning authority a post-excavation assessment (within six months of the completion date, unless otherwise agreed in advance with the planning authority), which will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. In the first instance a programme of trial trenching investigation will be required. A brief outlining the level of archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

ECC Highways Dept

A site visit has been undertaken and the information that was submitted in association with the application has been fully considered by the Highway Authority.

The proposal is located off New Road which is subject to a 30-mph speed limit. Park Lodge has two accesses and the existing south-west access is designated as the proposed access for this development, this vehicle access is 6.5m wide. There is evidence of on street parking either side of both vehicle accesses. The proposal allows adequate room and provision for off street parking and turning, for the proposed dwellings 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. The existing private drive will become a shared private drive. The applicant has adequate room to provide one vehicle passing place adjacent to the proposed access drive shown on the block plan, therefore:

2. Prior to first occupation a suitable vehicle passing place shall be provided within the curtilage with minimum dimensions of 5 metres wide x 6 metres in length. Details to be agreed with the Local Planning Authority

Reason: To ensure that vehicles can pass clear of the limits of the highway in the interests of highway safety in accordance with policy DM1.

3. Prior to first occupation, the provision of two on-site vehicle parking spaces and an associated turning area as shown in the principal block plan for each of the proposed dwellings. Each parking space shall have dimensions in accordance with current parking standards. The vehicle parking area and associated turning area shall be retained in the agreed form at all times.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

4. The retention of two on site vehicular parking spaces and an associated turning area shall be provided for the host dwelling 'Park Lodge'. The vehicle parking area and associated turning area shall be retained in the agreed form at all times.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8 and 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. No unbound materials shall be used in the surface treatment of any proposed 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.

6. All single garages should have a minimum internal measurement of length 7 metre x 3 metres and all double garages should have a minimum internal measurement of 7metre x 5.5 metres.

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. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

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

8. 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.

9. 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.

10. 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.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway 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: 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 2: Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

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.

ECC SuDS Consultee

Thank you for your email which provides Essex County Council (ECC) with the opportunity to assess and advise on the proposed surface water drainage strategy for the aforementioned planning application. As the Lead Local Flood Authority (LLFA) ECC provides advice on SuDS schemes for major developments. ECC have been statutory consultee on surface water since the 15th April 2015.

In providing advice this Council, and their appointed consultants, looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- o Non-statutory technical standards for sustainable drainage systems
- o Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- o The CIRIA SuDS Manual (C753)
- o BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

Having reviewed the planning application and the associated documents which accompanied the planning application, we have identified that this is not a major application and therefore we shall have no further comments accordingly in relation to this application. However please consider the following conditions/informatives if relevant for the development;

Conditions:

1) Surface Water Drainage - Prior to the commencement of the development details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:

- o Run-off from the site is limited to greenfield rates for a storm event that has a 100% chance of occurring each year (1 in 1 year event).
- o The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.

2) Sustainable Urban Drainage- Prior to commencement of the development no works shall take place until a detailed Sustainable Urban drainage scheme as specified in the Essex Sustainable Drainage Systems Design Guide 2014 submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented prior to occupation of the development and should include and not be limited to;

3) Maintenance - Prior to first occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed in writing, by the local planning authority.

4) Flood Risk Assessment - The measures contained within the Flood Risk Assessment a copy of which was submitted with the planning application and forms part of this permission, shall be fully implemented and in place prior to the first occupation of the development and retained as such thereafter.

5) Flood Risk Assessment 2 - Notwithstanding the details set out in the Flood Risk Assessment submitted with the application, no development shall be undertaken unless and until a method statement has been submitted to and approved in writing by the local planning authority detailing:-

- o The flood mitigation measures to be incorporated into the detailed design of the dwelling(s)
- o The provision for the installation of removable flood barriers such as flood boards to form part of the detailed design of the doorways and vents/airbricks on the exterior of the property
- o The provision of non-return valves to all sanitary outlets to prevent backflow during a flood

6) Flood Mitigation Measures - Development shall not be commenced until a scheme for the provision and implementation of flood mitigation measures has been submitted to and approved in writing, with the Local Planning Authority. The scheme shall be carried out in its entirety before the development is first occupied and constructed and completed in accordance with the approved plans and in line with the Environment Agency documents "Improving the flood performance of new buildings" and "Prepare your property for flooding: A guide for householders and small businesses."

Informatives

- o In discharging condition X where the surface water drainage strategy proposes the use of soakaways the details of the design and the results of a series of percolation tests carried out upon the subsoil in accordance with DG 365 2016. You are advised that in order to satisfy the soakaway condition the following details will be required:- details of the area to be drained, infiltration rate (as determined by BRE Digest 365), proposed length, width and depth of soakaway, and

whether it will be rubble filled.

o In discharging condition X where discharging to a watercourse the proposed scheme shall include details of the destination and discharge rates equivalent to "greenfield runoff" and no greater than 5 litres per second up to and including a 1 in 100 year rainfall event. This is typically achieved by installing some form of attenuation on site e.g. temporary storage.

o In discharging condition X if discharging to a watercourse, ditch, stream etc, the applicant must demonstrate that the system is an appropriate point of discharge for the site i.e would take existing pre-development flows. If not then further information/assessment will be required to determine the suitability of the system to convey the proposed flows and volumes of water. Evidence will be required that the development will not increase risk to others. If the proposed discharge point is outside the development site then the applicant will need to demonstrate that the necessary permissions and or agreements to achieve connection are possible.

o Where the local planning authority accepts discharge to an adopted sewer network you will be required to provide written confirmation from the statutory undertaker that the discharge will be accepted.

o No works to infill ditches should be undertaken without prior consent from Essex County Council. You should also be aware that works of this nature may require planning permission

o No raising of land in flood plains should take place without prior consent from Essex County Council. You should also be aware that works of this nature may require Environment Agency consent if in a flood plain.

o The removal of land drains likely to interrupt the flow may require prior consent from Essex County Council on 08457430430 or floods@essex.gov.uk. You should also be aware that works of this nature may require planning permission

Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

o Sequential Test in relation to fluvial flood risk;

o Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);

o Safety of the building;

o Flood recovery measures (including flood proofing and other building level resistance and resilience measures);

o Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, ECC advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. Should further correspondence be required, please contact the SuDS team directly using the below details.

Essex County Council
Heritage (dated 9 May
2019)

The application is for the erection of four dwellings.

The heritage assets relevant to this application include:

-The Manningtree and Mistley Conservation Area;

- Park Lodge (a non-designated heritage asset);

-Grade II listed, The Hollies (List Entry ID: 1240301)

I do not support this proposal and consider it particularly harmful.

The application is not compliant with paragraph 189 of the NPPF. The applicant has not fully assessed the significance of Park Lodge including the contribution made to significance by its setting. The applicant's Heritage Statement suggests the 'Site at Park Lodge does not contribute to the aesthetics or historical significance of the conservation area'. This is incorrect; Park Lodge is recognised as a positive contributor to the conservation area. The building appears to be of at least nineteenth century date and the site of proposed structures is located in areas which likely contribute to its setting and significance of this heritage asset.

Based on the information available, the proposed development will cause considerable and irreversible harm to the setting and significance of Park Lodge. Furthermore this type of development is incongruous to the development footprint in this park of the conservation area and therefore detracts from its character.

Had an appropriate Heritage Statement been undertaken, which followed Historic England's Setting of Heritage Asset Guidance, the full harm of this proposal would have likely been realised.

I do support this proposal as:

-It will cause considerable harm to the setting and significance of a non-designated heritage asset which should be given weight under paragraph 197 of the NPPF;

-The form of development will cause harm, for the same reason above, to the character and appearance of the conservation area. As such this less than substantial harm to a designated heritage asset should be considered under paragraph 196 of the NPPF. Paragraph 201 could also be considered in this regard;

-The proposal also has potential to adversely impact the setting and significance of The Hollies; and

-The Heritage Statement is not, in my opinion, compliant with paragraph 189 of the NPPF.

Essex County Council
Heritage (dated 3
September 2019 following
submission of a heritage
statement)

The application is for the erection of four dwellings.

The heritage assets relevant to this application include:

- o The Manningtree and Mistley Conservation Area;
- o Park Lodge (a non-designated heritage asset);
- o Grade II listed, The Hollies (List Entry ID: 1240301)

I do not support this proposal and consider it particularly harmful.

A heritage statement has been provided. This statement has not changed the conclusions of my original consultation. I consider paragraph 197 of the NPPF relevant to this application in terms of harm to significance (through inappropriate development in the setting of) Park Lodge. This building makes a positive contribution to the Manningtree and Mistley Conservation Area and as such 'less than substantial harm' is also considered to this designated heritage asset and therefore paragraph 196 of the NPPF is also relevant.

3. Planning History

TPC/97/81	Fell 6 fir trees in front garden	Current	24.11.1997
98/00329/FUL	Internal and external alterations including conservatory and alteration to roof	Approved	28.04.1998

04/01709/TCA	Reduce height of 8 Cypress by one third. Reduce the height of remaining four Cypress, birch and Sycamore to the same height as trees on neighbouring property.	Approved	21.09.2004
06/00899/TCA	Remove Leylandii forming hedge in rear garden.	Approved	22.06.2006
06/01417/TCA	Fell 4 No. conifers	Approved	15.09.2006
11/01186/TCA	1 No. Pine - fell. 1 No. Large Eucalyptus - fell. 1 No. Silver Birch - fell	Approved	01.11.2011
15/01042/TELLIC	Installation of high speed broadband cabinet.	Determination	30.07.2015
15/01881/TCA	Conifers on boundary - reduce by 30%	Approved	12.01.2016
16/01201/TCA	1 No. Sycamore, 1 No. Maple - reduce by 30%	Approved	30.08.2016
18/00283/TCA	3 No. fir trees - wind damaged - fell	Approved	29.03.2018

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

EN17 Conservation Areas

EN23 Development Within the Proximity of a Listed Building

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG4 Affordable Housing in New Developments

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)

CP1 Sustainable Transport and Accessibility

LP1 Housing Supply

LP4 Housing Layout

LP8 Backland Residential Development

PPL4 Biodiversity and Geodiversity

PPL8 Conservation Areas

PPL9 Listed Buildings

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

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 (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 site is land to the rear of Park Lodge, which lies on the south-eastern side of New Road within the parish of Mistley. Park Lodge itself is a large detached residential property constructed of red brick and grey slate roof, while the area to the rear subject of the application is laid to grass but well populated with established trees and shrubs.

The site lies within the Manningtree and Mistley Conservation Area, while adjacent to the north of the site is The Hollies, a Grade II Listed Building. Adjacent to the south-east of the site is a Local Green Gap.

The curtilage of Park Lodge falls within the Settlement Development Boundary for Mistley in the Adopted Local Plan, but the majority of the site where the development is to take place falls outside. Within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft the whole site falls within the Mistley Settlement Development Boundary.

Description of Proposal

This application seeks full planning permission for the erection of four residential dwellings to the rear of Park Lodge. The dwellings are all to be detached, of a 1.5 storey design and served by four bedrooms.

Site History

While the application site itself has not been the subject of previous planning applications, there has been a notable development adjacent to the south-east of the site. Under planning reference 17/00004/OUT, 67 dwellings were refused planning permission on the grounds that the development would harm the Manningtree and Mistley Conservation Area, lead to the loss of part of the Local Green Gap and Coastal Protection Belt. The proposal also failed to demonstrate that surface water flooding will not be caused elsewhere as a result of the development, while a legal agreement was not secured for financial contributions towards Open Space, affordable housing and school places.

However, under appeal reference APP/P1560/W/17/3176089 (dated 19 February 2018), this application was allowed at appeal, with the Inspector concluding "*The proposal would result in a minor to moderate, albeit highly localised, adverse effect on the character and appearance of the area and as such would conflict with the objective of LP Policy EN2 to protect the rural setting of settlements. However, the localised harm to the character and appearance of the area and the breach of LP Policy EN2 is significantly outweighed by the benefits of this scheme in terms of boosting the supply of housing. Accordingly and taking all other matters into consideration, the appeal is allowed.*"

Under planning reference 19/01068/DETAIL there is an application under consideration for the details relating to the previous approval at appeal stage.

Assessment

1. Principle of development

The site is situated partially within the defined settlement limits of Manningtree as defined by the adopted Tendring District Local Plan (2007), part of the site is also designated as Green and Gap and as being within the coastal protection belt. The designation of the Green Gap and Coastal Protection Belt seek to restrict development. However notwithstanding the above, the whole site lies within the settlement development boundary of the emerging Publication Draft (2017). Given the stage of the emerging plan, it is considered that this can be given significant weight. The principle of residential development in this location is therefore acceptable subject to the detailed considerations as set out below.

2. Backland Development

The development involves the construction of four detached dwellings in a 'backland' location to the rear of the established residential frontage along New 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 within the defined settlement boundary in the emerging local plan and is not designated for any particular use;

(ii) - the proposal does include the addition of four dwellings to the rear of Park Lodge, in an area that would partly include the properties existing private amenity area. However a significant area for private amenity will be retained that is well in excess of the 100sqm requirements of Policy HG9. Further, all new dwellings are on spacious plots that comfortably exceed 100sqm private amenity space. All new and existing dwellings will also have sufficient space for off street parking.

(iii) - the proposed access would be located on the southern side of Park Lodge, and is an existing access point. Essex County Council Highways do not object to the proposal. In terms of the impact upon residential amenity, the access point will be located approximately 4 metres to Park Lodge, adjacent to the north. While the access point is in close proximity the noise disturbances as a result of the comings and goings associated with four dwellings is not considered to be excessive enough to warrant a reason for refusal.

(iv) - whilst the access is to be shared, it does not represent a form of tandem development.

(v) - the site is of a 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 north, north-east and west. Further, adjacent to the south-east a planning appeal was allowed for the erection of 67 dwellings together with the formation of an access. This further encloses the site and ensures the proposed four dwellings would not form a hard urban edge.

(vii) - the development would not set a harmful precedent as, following the recent appeal decision, there is planning permission for the erection of 67 dwellings to the rear of the site. There is further existing development to the north of the site that is sited to the rear of the main building line along New Road. Therefore it is considered the precedent for this form of development has previously been set, and the additional four dwellings being proposed would not significant add to this.

3. 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 193 of the National Planning Policy Framework (2019) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

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 that 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 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).

Policy EN23 of the Adopted Local Plan states that development 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 Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The application site is within the Manningtree and Mistley Conservation Area, while The Hollies, a Grade II Listed Building is located adjacent to the north of the site. Further, Park Lodge is a non-designated heritage asset.

Initially, the Council's Historic Environment consultant raised concerns that the proposal was not in accordance with paragraph 189 of the NPPF as the applicant had not fully assessed the significance of Park Lodge, including the contribution it made to significance of its setting. However following these comments a detailed Heritage Statement was supplied.

It is acknowledged that following appeal decision APP/P1560/W/17/3176089 there is an extant permission for 67 residential dwellings to the immediate east of the application site. However that notwithstanding, Park Lodge, which is of at least nineteenth century date, is recognised as a positive contributor to the Manningtree and Mistley Conservation Area, and as such is recognised as a non-designated heritage asset. The siting of the proposed dwellings is located in areas which contribute to the setting and significance of this non-designated heritage asset. As such the proposed development will cause considerable and irreversible harm to the setting and significance of Park Lodge.

Furthermore, this section of New Road involves a number of large dwellings set within open and spacious plots, with large rear garden areas. The proposed four dwellings are to be sited within the rear garden area of Park Lodge, and would appear incongruous to the development footprint in this part of the conservation area, therefore detracting from its existing character and appearance. As a consequence the proposed development will cause less than substantial harm to a designated heritage asset.

Therefore, whilst the harm to the character and appearance of the Manningtree and Mistley Conservation Area as a whole is less than substantial, there is significant harm to the spacious setting of Park Lodge, a non-designated heritage asset. While the Council is currently not able to demonstrate a five year supply of housing land, there are no public benefits as a result of four additional dwellings that outweigh this identified harm.

With respect to the Grade II Listed 'The Hollies' to the north of the site, while the development is sited in relative close proximity, there is a significant separation distance. Given this, and that main views of the building will remain unaltered, the proposal is considered to preserve the setting of 'The Hollies'.

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 submitted plans show that the four dwellings are each to be detached, 1.5 storey and set within spacious open plots. They will be accessed via a shared access point to the north-west of the site. The character of the surrounding area sees a number of detached two storey dwellings on large plots. Given this, and that the dwellings being slightly smaller would appear as a subservient addition to Park Lodge, the principle of the size of the dwellings is acceptable.

The design of the dwellings themselves are also considered to be of an acceptable standard with slightly individual designs for each dwelling, incorporating features such as dormers, canopy's, chimneys and brick plinths which help to soften the overall appearance. The dwellings also incorporate a differing use of materials, including smooth cream render, red brick, natural slate and clay pantile; again this helps to add variety to the development and help it assimilate well within its surroundings.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling with three bedrooms or more should be a minimum of 100 square metres. The submitted plans demonstrate that there will be sufficient private amenity area for all of the proposed dwellings and the existing dwelling.

5. 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 is an approximate separation distance of 40 metres between Plot 4 and 'The Hollies', which will ensure no significant loss of light. There is a first floor rear elevation window serving a bedroom that will face towards the garden area of 'The Hollies', however given a significant separation distance of approximately 20 metres to the garden area, on balance this identified harm will not be sufficient to recommend a reason for refusal.

The properties to the north of the site are located approximately 30 metres from the nearest proposed dwellings. Given this separation distance, and that any first floor side elevation windows directly facing are to be served by bathrooms that will be obscure glazed, there is not significant harm identified.

The Essex Design Guide states "With rear-facing habitable rooms, the rear faces of opposite houses approximately parallel, and an intervening fence or other visual barrier which is above eye level from the potential vantage point, a minimum of 25 metres between the backs of houses may be acceptable." It is noted that there will be an approximate separation distance of 20 metres between the rear of the proposed dwellings and those currently under consideration on the adjacent site (planning reference 19/01068/DETAIL). However, while this fails to adhere to the above guidance, it is acknowledged that the adjacent scheme is not currently approved and can therefore only be afforded limited weight. Therefore it would be unreasonable to refuse the application on these grounds.

There is considered to be sufficient spacing between the new dwellings to ensure no loss of future amenities, while there is a significant separation distance ranging between 30-45 metres to Park Lodge.

6. Highways Impacts

Essex Highways Authority have stated they have no objections to the scheme subject to conditions relating to a suitable vehicle passing place, a vehicular turning area and the use of no unbound materials. Additional conditions relating to cycle storage provision and the submission of a Residential Travel Information Pack were requested, however given there is sufficient space for cycle parking for all dwellings and that the development is not a major scheme, it would not be reasonable to include these as conditions.

The Adopted Parking Standards further require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces are 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. The submitted plans show that each new dwelling has a garage meeting the above measurements, whilst there is significant space to the front and sides of the dwellings to accommodate the additional space. Further, Park Lodge will retain sufficient room to meet the above off street parking requirements.

7. Tree and Landscape Impacts

The site is currently well populated with established trees and shrubs. The trees with the highest amenity value and consequently making the greatest contribution to the character and appearance of the Mistley and Manningtree Conservation Area are those closest to and viewed from New Road. The trees and shrubs in the rear garden are, to a large part, screened from view from New Road by this vegetation and the dwelling. Collectively they contribute to the appearance and functionality of a large and attractive rear garden.

As the site is situated within the Mistley and Manningtree Conservation Area all trees with a stem diameter greater than 75mm at a point 1.5m from ground level are protected. In order to show the likely impact of the development proposal on the trees on the land the applicant has provided a detailed tree survey and report. This information is included as Appendix 3 of the Planning Statement and is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction.

The tree report provides an accurate description of the health and condition of the trees on the land. In terms of the front garden the development proposal makes provision for the retention on the most important trees on the boundary with New Road and on section of the northern boundary closest to New Road. The creation of the new access road would be likely to result in the removal of some established trees and other vegetation although these are set back from the highway and a partially screened by the trees closer to New Road. It is considered that the removal of this vegetation would not have a significant adverse impact on the character or appearance of the conservation area. New soft landscaping can be secured by way of a planning condition to mitigate any likely harm.

With regard to the trees in the rear garden many are early mature and create a pleasant parkland 'feel' to the garden, however their amenity value is relatively low as they cannot be seen from New Road. Whilst in theory they make a positive contribution to both the character and appearance of the Mistley and Manningtree Conservation Area their positions are such that this potential is not realised.

It is also important to recognise that there is a Public Right of Way, Green Lane -approximately 100m to the south east of the rear garden, where it is possible to view the application site. At the present time the site can be seen from above the field boundary hedgerow adjacent to Green Lane although the hedgerow is about 1.8m tall and totally obscures views of the site below that height. It is also important to recognise that the field between Green Lane and the application site, currently in agricultural use, has an extant planning permission for housing development. The development of this land would mean that the application site would no longer abut the open countryside and in this respect would be screened from view, from Green Lane, by the new development.

The site layout shows the retention of several trees in the main body of the land and this is clearly desirable. It will also be desirable to secure strong boundary landscaping and the layout appears to show sufficient room to do this. Accordingly, the applicant has provided a comprehensive soft landscaping plan showing a good level of planting intended to soften and enhance the appearance of the development.

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 -3.00 hectares of equipped play/formal open space in Mistley. The closes play area to the site is located at the Welcome Home Field 0.1 miles from the development, which is classified as Local Equipped Areas for Play, but provides limited provision and is in need of updating.

Due to the significant lack of facilities in the area it is felt that a contribution towards play and formal open space is justified and relevant to this planning application, with the contribution to be used towards upgrading existing equipment at Welcome Home Field.

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

9. 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.

10. Archaeology

The above planning application has been identified as having the potential to harm designated and non-designated heritage assets with archaeological interest.

The site lies within the Conservation Area which includes the historic settlement and historic house and parkland at Mistley. Immediately to the south of the development the land was formerly part of the parkland for Mistley Hall in the late 1800's. To the south aerial photographic evidence indicates the route of a Roman road which ran to Colchester. In the surrounding area the EHER records a number of cropmark features including ring ditches and enclosures which may be prehistoric in origin. There is potential for evidence associated with the historic settlement and possibly earlier to survive which will be impacted upon by the proposed development.

Accordingly had the application been recommended for approval, conditions relating to a programme of archaeological evaluation would have been included within the decision.

11. Affordable Housing

In its initial form the site exceeded 0.5 hectares in size. Given this the Council requested that a financial contribution was paid. However, following discussions with the agent for the application, the site area has been amended and reduced to 0.3 hectares. A request for affordable housing is therefore no longer required.

Other Considerations

Mistley Parish Council have objected to the application for the following reasons:

1. The development represents over-development;
2. Harm to neighbouring amenities;
3. Does not enhance the Conservation Area;
4. Harm to setting of Grade II Listed Building;
5. Highway concerns; and
6. Site is outside of a settlement boundary and is a form of backland development.

In answer to this, all of these points have been addressed within the main body of the report above.

There has been 13 letters of objection received, with the concerns highlighted below:

1. Site is outside of a settlement boundary and is a form of backland development;
2. Impacts to local infrastructure;
3. Access to site is dangerous;
4. Design not in-keeping;
5. Impacts to neighbouring amenities;
6. Will not preserve or enhance the conservation area; and
7. Impact to local residents through building works.

In answer to this, points 1, 4, 5 and 6 have been addressed within the main body of the report. In answer to point 3, Essex Highways Authority have not objected to the scheme, while in answer to point 2 it is not considered that the effects of four dwellings would have significant impacts to the areas infrastructure, and the proposal is below the threshold for affordable housing, education or health contributions. In response to point 7, as building works are a short-term issue that would hinder any development it is not reasonable to recommend refusal on these grounds.

6. Recommendation

Refusal.

7. Reasons for Refusal

- 1 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 that 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 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 is within the Manningtree and Mistley Conservation Area, while Park Lodge is a non-designated heritage asset.

It is acknowledged that following appeal decision APP/P1560/W/17/3176089 there is an extant permission for 67 residential dwellings to the immediate east of the application site. However that notwithstanding, Park Lodge, which is of at least nineteenth century date, is recognised as a positive contributor to the Manningtree and Mistley Conservation Area, and as such is recognised as a non-designated heritage asset. The siting of the proposed dwellings is located in areas which contribute to the setting and significance of this non-designated heritage asset. As such the proposed development will cause considerable and irreversible harm to the setting and significance of Park Lodge.

Furthermore, this section of New Road involves a number of large dwellings set within open and spacious plots, with large rear garden areas. The proposed four dwellings are to be sited within the rear garden area of Park Lodge, and would appear incongruous to the development footprint in this part of the conservation area, therefore detracting from its existing character and appearance. As a consequence the proposed development will cause less than substantial harm to a designated heritage asset.

Therefore the harm to the character and appearance of the Manningtree and Mistley Conservation Area as a whole is considered as less than substantial, while there is significant harm to the spacious setting of Park Lodge, a non-designated heritage asset. While the Council is currently not able to demonstrate a five year supply of housing land, the modest public benefits of four additional dwellings would not outweigh this identified harm.

The proposal would therefore be contrary to the above national and local policies.

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.