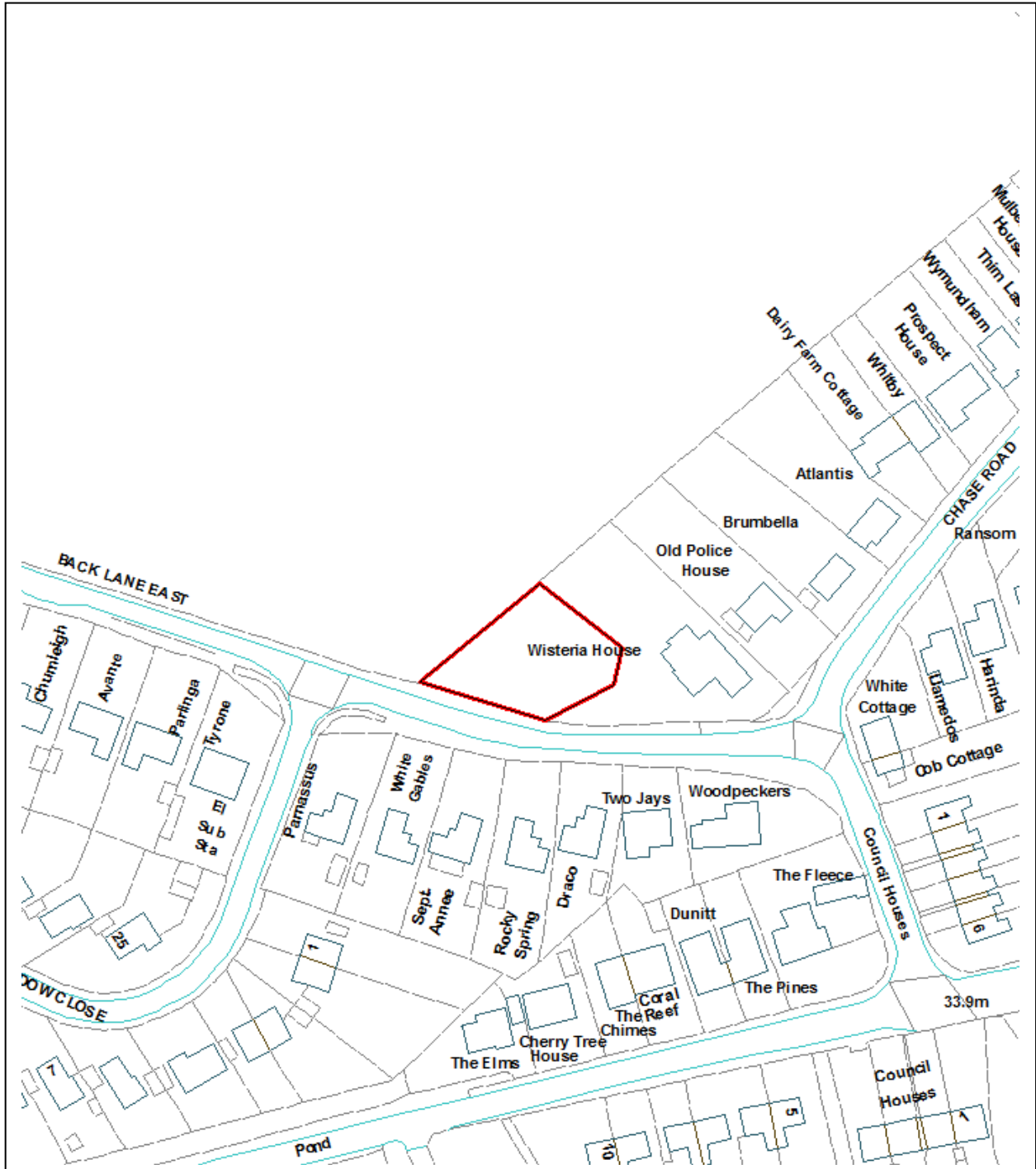


PLANNING COMMITTEE

22 October 2019

REPORT OF THE HEAD OF PLANNING

A.5 PLANNING APPLICATION – 19/01353/OUT – WISTERIA HOUSE BACK LANE EAST GREAT BROMLEY CO7 7UE



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Application: 19/01353/OUT

Town / Parish: Great Bromley Parish Council

Applicant: Mr and Mrs Owens

Address: Wisteria House Back Lane East Great Bromley CO7 7UE

Development: Construction of a self-build/custom build bungalow with associated single garage, driveway and garden area.

1. Executive Summary

- 1.1 The application is referred to Planning Committee at the request of Councillor Scott due to the perceived positive impact of the development on the locality.
- 1.2 The site lies outside of any Settlement Development Boundary as defined within both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Great Bromley is identified as one of the least sustainable locations for growth within both the adopted and emerging Local Plans.
- 1.3 The application seeks outline permission with all matters reserved for the erection of 1 no. self-build/custom build bungalow with associated double garage, driveway and garden area. This application follows a previous refusal for a very similar scheme under planning application reference 19/00674/OUT (currently subject of an Appeal to the Planning Inspectorate). The application was refused as the development was considered contrary to the environmental and social strands of sustainability.
- 1.4 The current application differs from the previous refusal as it now seeks permission for a self-build/custom built dwelling. Some amendments have also been made to the appearance of the development but these are immaterial as the application is made in outline form. Furthermore, additional information has been provided in support of the perceived sustainable attributes of the locality and the suitability of the site for residential development.
- 1.5 The application site currently comprises the side garden area associated with the property known as Wisteria House, located on the northern side of Back Lane East within the Parish of Great Bromley. Back Lane East forms the southern boundary of the site, with the donor dwelling to the north-east and open countryside to the north and west. The site currently contains a number of outbuildings and glass houses ancillary to the donor property.
- 1.6 In this instance, the application site is located approximately 2km from the edge of the Great Bromley Settlement Boundary to the north-west with its already limited range of services and amenities. In this regard, there is no access to day to day needs within a practical walking distance. It is highly likely that the occupants of the proposed dwelling would be car dependant failing to promote sustainable modes of transport therefore failing to meet the social strand of sustainable development.
- 1.7 The site is bound by open fields to its north and north-west. With no other dwellings on this side of Back Lane East, it takes on a very different character. The semi-rural character of the locality is not compromised by the existing domestic structures within the garden of Wisteria House. The development is considered to represent an unplanned advance of urbanisation. Whilst it is recognised that the existing vegetation around the site and single storey scale of the dwelling would minimise the wider landscape harm, the introduction of an additional dwelling in this location fronting this part of the lane would be out of character within the street scene of both Chase Road West and Back Lane East. Furthermore, if approved, this development would set a harmful precedent for the continuation of ribbon development along

this side of Back Lane East further eroding the semi-rural character of the area to the severe detriment of the landscape and character of the area.

- 1.8 In respect of the self-build/custom built home aspect of the proposal that can be attributed to the consideration of this application, Regardless of the need identified through our Self-build and Custom Housebuilding Register or the merits of the application in relation to Draft Policy LP7, the self-build aspect of the proposal is not considered to constitute a material consideration that warrants a departure from the Local Plan and there are no exceptional circumstances that outweigh the social and environmental harm identified.
- 1.9 Officers are satisfied that the erection of 1 detached bungalow could be achieved on the site without resulting in any demonstrable harm to residential amenities or highway safety and the development would contribute economically to the area during construction and occupation.
- 1.10 However, the provision of a single dwelling would make an immaterial contribution to the delivery of housing in the district. The poor social sustainability credentials of the site and adverse impact on the character of the area outweigh any economic benefits of the scheme. There are no exceptional circumstances that warrant approval of the development of the site for a self-build/custom build dwelling. The application is therefore recommended for refusal.
- 1.11 The development of the site for a single dwelling would be subject of a legal obligation to secure a financial contribution toward recreational impact mitigation (RAMS) and open space/play space projects through the completion of a Unilateral Undertaking (UU). A completed UU has been received and the application is not being refused on these grounds.

Recommendation: Refusal

That the Head of Planning be authorised to refuse planning permission for the reasons set out within paragraph 8.2.

2. Planning Policy

- 2.1 The following Local and National Planning Policies are relevant to this planning application:

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG16 Garden Extensions into the Countryside

HG7 Residential Densities

HG9 Private Amenity Space

TR1A Development Affecting Highways

EN6 Biodiversity

EN1 Landscape Character

EN11A Protection of International Sites European Sites and RAMSAR Sites

COM6 Provision of Recreational Open Space for New Residential Development

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL3 Sustainable Design

LP1 Housing Supply

LP3 Housing Density and Standards

LP4 Housing Layout

LP7 Self-Build and Custom Built Homes

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

HP5 Open Space, Sports & Recreation Facilities

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.2 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.
- 2.3 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.

2.4 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.

2.5 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.

3. Relevant Planning History

02/00409/FUL	Change of use from agricultural use to garden curtilage	Approved	15.05.2002
04/00084/FUL	New dwelling and garage.	Approved	10.03.2004
19/00674/OUT	Proposed erection of a bungalow with associated double garage, driveway and garden area.	Refused	12.07.2019

4. Consultations

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 a quiet rural lane and will be located opposite several existing bungalows. The application is very similar to the

previous application (19/00674/OUT) The proposal provides adequate parking and turning therefore:

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

1. Prior to the first occupation of the dwelling, 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 (4 low kerbs), shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.

Reason: To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety and in accordance with Policy DM1 and DM6.

2. Prior to occupation of the dwelling 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.

3. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

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

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

5. All double garages should have a minimum internal measurement of 7m x 5.5m.

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. Prior to the first occupation of the dwelling the provision of the following:

A 1.5-metre-wide footway on the west side of the existing vehicle access to Wisteria House westwards for approximately 34 metres or to the first access to the

new dwelling; including the relocation/ replacement electricity poles/ lighting, removal of redundant kerbing and replacement with upstand kerb and footway, relocation/ replacement of any associated drainage works.

Reason: to facilitate access to the local footway network, and public rights of way network in the interests of accessibility and highway safety.

7. 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:

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

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

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

5. Representations

5.1 No comments have been received from Great Bromley Parish Council.

5.2 No individual letters of representation have been received.

6. Assessment

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Planning History;
- Principle of Development;

- Self-Build and Custom Built Homes;
- Access and Parking;
- Residential Amenities;
- Legal Obligations - Recreational Impact Mitigation; and,
- Legal Obligations - Open Space/Play Space Contribution.

Site Context

- 6.2 The application site currently comprises the side garden area associated with the property known as Wisteria House, located on the northern side of Back Lane East within the Parish of Great Bromley. Wisteria House is a modern two storey house with a double garage attached to the main building (granted planning permission in 2004 under reference 04/00084/FUL).
- 6.3 The application site measures approximately 960 square metres in size being the south-western corner of the roughly triangular plot of Wisteria House. Back Lane East forms the southern boundary of the site, with the donor dwelling to the north-east and open countryside to the north and west of the site. The site currently contains a number of outbuildings and glass houses ancillary to the donor property.

Proposal

- 6.4 The application seeks outline permission with all matters reserved for the erection of 1 no. self-build/custom build bungalow with associated double garage, driveway and garden area.
- 6.5 Scale, appearance, landscaping, access and layout are all reserved for subsequent consideration.
- 6.6 Although this application is made in outline application with all matters reserved the application includes indicative plans to illustrate how the development proposal will be accommodated within the site.
- 6.7 The indicative plan shows a 2 bedroom detached bungalow (with separate study and garden room) orientated in a south-easterly direction with a detached double bay garage/cart lodge building sited to the front adjacent to Wisteria House. The private garden would wrap around the side and rear of the bungalow with vehicular access taken from Back Lane East.

Planning History

- 6.8 This application follows a previous refusal for a very similar scheme under planning application reference 19/00674/OUT (currently subject of an Appeal to the Planning Inspectorate). The application was refused as the development was considered contrary to the environmental and social strands of sustainability due to the lack of services to meet day to day needs and the harm to the character of the area.
- 6.9 The current application differs from the previous refusal as it now seeks permission for a self-build/custom built dwelling. Some amendments have also been made to the appearance of the development but these are immaterial as the application is made in outline form.
- 6.10 Furthermore, additional information has been provided in support of the perceived sustainable attributes of the locality and the suitability of the site for residential development. These include Site Photo Analysis and Urban Landscape Analysis.

Principle of Development

- 6.11 The site lies outside of any Settlement Development Boundary as defined within both the adopted Tendring District 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.
- 6.12 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.
- 6.13 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.
- 6.14 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.
- 6.15 While the NPPF advocates a plan-led approach, it is important to consider whether any circumstances outweigh the conflict. Development should be plan led unless material considerations indicate otherwise and it is accepted that the site is not in a preferred location for growth.
- 6.16 In line with Paragraph 8 of the National Planning Policy Framework (2019), achieving sustainable development means meeting an economic objective, a social objective and an environmental objective. These are assessed below.
- economic;
 - social, and;
 - environmental roles.
- 6.17 The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary.

Economic

- 6.18 It is considered that the proposal would contribute economically to the area, for example by providing employment during the construction of the property and from the occupants utilising local services (in addition to the future occupants of the donor dwelling), and so meets the economic strand of sustainable development.

Social

- 6.19 Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations therefore being in line with the aims of the aforementioned paragraph 17 of the NPPF. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. In rural areas, the NPPF states at Paragraphs 77 and 78 that planning policies and decisions should promote sustainable development in rural areas and that housing should be located where it will enhance or maintain the vitality of rural communities.
- 6.20 Great Bromley is identified as a village within saved Policy QL1 of the adopted Tendring District Local Plan 2007 and is defined as a Smaller Rural Settlement within Policy SPL1 of the emerging Tendring District Local Plan Publication Draft (2017). These smaller villages are considered to be the least sustainable locations for growth and there is a concern that encouraging too much development in these areas will only serve to increase the number of people having to rely on cars to go about their everyday lives. Within the emerging Local Plan, Settlement Development Boundaries have been drawn flexibly, where practical, to accommodate sites both within and on the edge of villages and thus enabling them to be considered for small-scale residential 'infill' developments.
- 6.21 In this instance, the application site is located approximately 2km from the edge of the Great Bromley Settlement Boundary to the north-west with its already limited range of services and amenities. The site is located within 'Hare Green' which has no defined settlement boundary due to its small size and lack of services and amenities.
- 6.22 In this regard, there is no access to day to day needs within a practical walking distance. It is highly likely that the occupants of the proposed dwelling would be car dependant failing to promote sustainable modes of transport therefore failing to meet the social strand of sustainable development.
- 6.23 It is noted that there is a bus service to Colchester a short walk from the application site, but this in isolation is not considered sufficient to support new dwellings in this locality.
- 6.24 Regardless of the Council's housing land supply position, the application fails to meet the social strand of sustainable development nor will the delivery of a single dwelling enhance or maintain the vitality of the rural community. The development is contrary to the aforementioned local plan policies and the aims of the NPPF as a whole. The development is unnecessary and there are no public benefits that might warrant the proposal being considered in an exceptional light.

Environmental

- 6.25 The environmental role is about contributing to protecting and enhancing the natural and built environment. Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and

enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.

- 6.26 Although the site could not be described as isolated, due to the presence of dwellings to the east and south, the site itself is bound by open fields to its north and north-west. Although the vehicular access is via Back Lane East, Wisteria House is positioned within its plot with a south-easterly orientation appearing to address Chase Road West. With no other dwellings on this side of Back Lane East, it takes on a very different character. The application site currently comprises the side garden area serving Wisteria House and contains a number of small, domestic outbuildings and greenhouse structures only. The semi-rural character is not compromised by these structures.
- 6.27 The southern side of Back Lane East is characterised by detached bungalows. Therefore, the erection of a bungalow would not be considered wholly out of character in terms of the residential built form in the locality.
- 6.28 Nonetheless, the development itself represents an unplanned advance of urbanisation. Whilst it is recognised that the existing vegetation around the site and single storey scale of the dwelling would minimise the wider landscape harm, the introduction of an additional dwelling in this location fronting this part of the lane would be out of character within the street scene of both Chase Road West and Back Lane East.
- 6.29 Furthermore, if approved, this development would set a harmful precedent for the continuation of ribbon development along this side of Back Lane East further eroding the semi-rural character of the area to the severe detriment of the landscape and character of the area.
- 6.30 The provision of a single dwelling would make an immaterial contribution to the delivery of housing in the district. The adverse visual impact would significantly and demonstrably harm the character of the area therefore failing the environmental strand of sustainability outweighing any economic benefits of the scheme.

Self-Build and Custom Built Homes

- 6.31 The National Planning Policy Guidance (NPPG) tells us that The Self-build and Custom Housebuilding Act 2015 requires each relevant authority to keep a register of individuals and associations of individuals who are seeking to acquire serviced plots of land in the authority's area in order to build houses for those individuals to occupy as homes (referred to in the guidance as self-build and custom housebuilding registers). The guidance accompanies the Self-build and Custom Housebuilding (Register) Regulations 2016 made under the Act.
- 6.32 The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) provides a legal definition of self-build and custom housebuilding. The Act does not distinguish between self-build and custom housebuilding and provides that both are where an individual, an association of individuals, or persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals.

- 6.33 Section 2 (1) of the Self-build and Custom Housebuilding Act 2015 (as amended) places a duty on relevant bodies to have regard to each self-build and custom housebuilding register that relates to their area when carrying out their plan-making and decision-taking functions. The registers that relate to their area may be a material consideration in decision-taking. Plan-making functions should use their evidence on demand for this form of housing from the registers that relate to their area in developing their Local Plan and associated documents.
- 6.34 Section 2A (2) of the Self-build and Custom Housebuilding Act 2015 (as amended) states that the Authority must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to an authority's register.
- 6.35 The supporting information provided with the application states that the applicants have registered their interest on our self-build and custom housebuilding register and are willing to submit a Unilateral Undertaking to secure this dwelling as a self-build.
- 6.36 Policy LP7 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) is a new policy which aims to satisfy the requirements set out within legislation and national policy and guidance. There is no equivalent saved policy within the adopted Local Plan (2007) as this pre-dates the Self-build and Custom Housebuilding Act 2015 (as amended).
- 6.37 The NPPF is silent on policies relating directly to the delivery mechanism for self-build or custom-built dwellings.
- 6.38 Emerging Policy LP7 states that the Council will consider, on their merits, proposals for Self-Build and Custom-Built Homes on land outside of settlement development boundaries, where they will still support a sustainable pattern of growth in the District. Such developments must either:
- a. be located on a site safely accessible on foot within 600 metres of the edge of the settlement development boundary of one of the District's 'strategic urban settlements' or 'smaller urban settlements'; or,
 - b. be located on a site safely accessible on foot within 400 metres of the edge of the settlement development boundary of one of the District's 'rural service centres'; or,
 - c. involve the redevelopment of vacant or redundant previously developed land that can be shown, with evidence, to be unviable for employment use.
- 6.39 Whilst the emerging Local Plan is progressing well, Draft Policy LP7 has not yet been scrutinised by the Planning Inspectorate by an appeal or through the Local Plan process. It can therefore only be given very limited weight. Other policies such as Draft Policy SPL1 have been endorsed by the Planning Inspector as being in line with the NPPF.
- 6.40 For completeness, an assessment of the development against emerging Policy LP7 has been carried out. In this instance, the application site is located approximately 2km away from the edge of the Great Bromley Settlement Boundary which is defined as a 'Smaller Rural Settlement' within draft Policy SPL1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). The edge of the settlement is not safely accessible on foot.
- 6.41 Draft Policy LP7 does not recognise the edge of Smaller Rural Settlements as suitable areas for the delivery of self-build and custom-built homes which echoes the sentiments of

emerging Policy SPL1 which identifies these settlements as the least sustainable locations for growth.

- 6.42 The proposal therefore fails to meet the requirements of draft Policy LP7 due to the settlement category, distance from the edge of the settlement and lack of footpaths. Draft Policy LP7 c is not relevant to this proposal.
- 6.43 Regardless of the need identified through our Self-build and Custom Housebuilding Register or the merits of the application in relation to Draft Policy LP7, the self-build aspect of the proposal is not considered to constitute a material consideration that warrants a departure from the Local Plan and there are no exceptional circumstances that outweigh the social and environmental harm identified above.
- 6.44 The status of Draft Policy LP7 means that a refusal based on this policy is not required at this time.

Trees and Landscaping

- 6.45 The main body of the application site forms part of the residential curtilage of the host property and is well stocked with trees and two hedges.
- 6.46 In order to show the extent of the constraint that the existing vegetation is on the development potential of the land, to identify the most important and visually prominent trees the applicant has provided an Arboricultural Impact Assessment (AIA) - a tree survey and report.
- 6.47 The information contained in the report provides an accurate description of the health, condition and amenity value of the trees on the land. It has been carried out in accordance with BS5837: 2012 Trees in relation to design, demolition and construction' Recommendations.
- 6.48 The report identifies the trees that will need to be removed in order to facilitate the development and shows how retained trees will be physically protected for the duration of the construction phase of any development for which planning permission may be granted.
- 6.49 The AIA makes provision for the retention and protection of two Oaks T19 and T20 which are the trees with the greatest amenity value. It is not considered expedient to make a new TPO on any of the trees on the site at the present time.
- 6.50 If Members are mindful to approve outline planning permission, then soft landscaping would be secured through the submission and approval of the reserved matters application. However, a condition should be attached to secure details of the protection of the retained tree.

Highway Safety and Parking

- 6.51 Saved Policy QL10 of the Saved Plan states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate.
- 6.52 Access for the proposed development will be via a new private drive parallel with Heath Road with an entrance slightly to the south east of the existing access to achieve better visibility splays. The indicative site layout plan shows each dwelling with its own parking and garage with adequate turning areas.

- 6.53 Officers consider that sufficient space is available on site to provide a development that could achieve access, turning and parking in line with the requirements the Council's current adopted Parking Standards.
- 6.54 Essex County Council Highway Authority raise no objection subject to conditions.

Residential Amenities

- 6.55 The NPPF, in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) 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'. Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) supports these objectives.
- 6.56 Officers consider that sufficient space is available on site to provide a development that could achieve an internal layout and separation distances that would not detract from the amenities of any nearby dwellings or the future occupiers of the proposed dwellings and would provide private amenity areas in excess of the standards set out within Saved Policy HG9 of the adopted Local Plan for both the new and donor dwelling.

Legal Obligations - Recreational Impact Mitigation

- 6.57 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.
- 6.58 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.
- 6.59 The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 5600 metres from the Essex Estuaries SAC and Colne Estuary SPA and RAMSAR sites.
- 6.60 New housing development within the Zoi would be likely to increase the number of recreational visitors to the Essex Estuary and Colne Estuary and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.
- 6.61 A completed unilateral undertaking has been received to secure the financial contribution required to mitigate against any recreational impact from the new dwelling and to ensure 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. Although Officers are recommending refusal this does not therefore form a reason for refusal. Should Members be mindful to approve the application, this would be subject to the UU and terms set out in paragraph 8.1.

Legal Obligations – Open Space/Play Space Contribution

- 6.62 There is currently a deficit of -1.15 hectares of equipped play and formal open space in Great Bromley. The nearest play space in Great Bromley is located along Harwich Road, approximately 0.2 miles from the application site. Due to the close proximity to the play area at Hare Green, a contribution towards the improvement of this play area is both relevant and justified to this application.
- 6.63 A completed unilateral undertaking has been received to secure the financial contribution towards the project identified above. Although Officers are recommending refusal this does not therefore form a reason for refusal. Should Members be mindful to approve the application, this would be subject to the UU and terms set out in paragraph 8.1.

7. Conclusion

- 7.1 For the reasons set out above, the development is considered to represent an unsustainable form of development due to the social and environmental harm identified. The provision of a single dwelling would make an immaterial contribution to the delivery of housing in the district. The poor social sustainability credentials of the site and adverse impact on the character of the area outweigh any economic benefits of the scheme. Furthermore, there are no exceptional circumstances that warrant approval of the development of the site for a self-build or custom built dwelling.

8. Recommendation

- 8.1 The Planning Committee is recommended to refuse outline planning permission subject to the below reasons for refusal and informatives. Should Members be mindful to approve the application contrary to officer recommendation, this would be subject to the completed unilateral undertaking with the agreed Heads of Terms as set out in the table below together with the associated informatives in relation to the UU;

CATEGORY	TERMS
Financial contribution towards RAMS.	£122.30 per dwelling.
Financial contribution towards open space and play space.	To fund improvements to the Hare Green play area.

8.2 Reasons for refusal

- 1 The site lies outside of any Settlement Development Boundary as defined within both the adopted Tendring District 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 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.

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. While the NPPF advocates a plan-led approach, it is important to consider whether any circumstances outweigh the conflict. Development should be plan led unless material considerations indicate otherwise and it is accepted that the site is not in a preferred location for growth.

Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations therefore being in line with the aims of the aforementioned paragraph 17 of the NPPF. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. In rural areas, the NPPF states at Paragraphs 77 and 78 that planning policies and decisions should promote sustainable development in rural areas and that housing should be located where it will enhance or maintain the vitality of rural communities.

Great Bromley is identified as a village within saved Policy QL1 of the adopted Tendring District Local Plan 2007 and is defined as a Smaller Rural Settlement within Policy SPL1 of the emerging Tendring District Local Plan Publication Draft (2017). These smaller villages are considered to be the least sustainable locations for growth and there is a concern that encouraging too much development in these areas will only serve to increase the number of people having to rely on cars to go about their everyday lives. Within the emerging Local Plan, Settlement Development Boundaries have been drawn flexibly, where practical, to accommodate sites both within and on the edge of villages and thus enabling them to be considered for small-scale residential 'infill' developments.

In this instance, the application site is located approximately 2km from the edge of the Great Bromley Settlement Boundary to the north-west with its already limited range of services and amenities. The site is located within 'Hare Green' which has no defined settlement boundary due to its small size and lack of services and amenities.

In this regard, there is no access to day to day needs within a practical walking distance. It is highly likely that the occupants of the proposed dwelling would be car dependant failing

to promote sustainable modes of transport therefore failing to meet the social strand of sustainable development.

It is noted that there is a bus service to Colchester a short walk from the application site, but this in isolation is not considered sufficient to support new dwellings in this locality.

Regardless of the Council's housing land supply position, the application fails to meet the social strand of sustainable development nor will the delivery of a single dwelling enhance or maintain the vitality of the rural community. The development is contrary to the aforementioned local plan policies and the aims of the NPPF as a whole. The development is unnecessary and there are no public benefits that might warrant the proposal being considered in an exceptional light.

- 2 Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.

Although the site could not be described as isolated, due to the presence of dwellings to the east and south, the site itself is bound by open fields to its north and north-west. Although the vehicular access is via Back Lane East, Wisteria House is positioned within its plot with a south-easterly orientation appearing to address Chase Road West. With no other dwellings on this side of Back Lane East, it takes on a very different character. The application site currently comprises the side garden area serving Wisteria House and contains a number of small, domestic outbuildings and greenhouse structures only. The semi-rural character is not compromised by these structures.

Nonetheless, the development itself represents an unplanned advance of urbanisation. Whilst it is recognised that the existing vegetation around the site and single storey scale of the dwelling would minimise the wider landscape harm, the introduction of an additional dwelling in this location fronting this part of the lane would be out of character within the street scene of both Chase Road West and Back Lane East. Furthermore, if approved, this development would set a harmful precedent for the continuation of ribbon development along this side of Back Lane East further eroding the semi-rural character of the area to the severe detriment of the landscape and character of the area.

The provision of a single dwelling would make an immaterial contribution to the delivery of housing in the district. The adverse visual impact would significantly and demonstrably harm the character of the area therefore failing the environmental strand of sustainability outweighing any minor economic benefits of the scheme.

8.3 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 Agent. 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.

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and

freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

None.