

2. Prior to occupation of the development the vehicular parking and turning facility, as shown on the submitted plan 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. 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.

4. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

5. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the footway / verge or where no provision of footway/verge is present, the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety in accordance with policy DM1.

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

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

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: 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.

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

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

ECC Highways Dept
AMENDED COMMENTS

The information that was submitted in association with the application has been fully considered by the Highway Authority. It is noted that a previous application was made in 2017 (17/01489/FUL) for a proposed dwelling; it is noted that the carriageway width is at or below 3.5 metres but there are a number of existing dwellings in the vicinity of the proposed site. The proposal provides adequate room and provision for off street parking and turning, for the proposed dwelling therefore:

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

1. Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 33 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

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

2. Prior to occupation of the development the vehicular parking and turning facility, as shown on the submitted plan 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. 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.

4. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

5. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the footway / verge or where no provision of footway/verge is present, the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety in accordance with policy DM1.

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

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

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.

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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.

(Continued.....)

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.

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Essex Wildlife Trust No comments received.

3. Planning History

16/30192/PREAPP	Proposed dwelling, relocation of existing access, new landscape planting and part regrading of existing lake edges.	Refused	07.11.2016
17/00290/FUL	Proposed one and a half storey extension to rear/south-east corner of dwelling.	Approved	26.04.2017
17/01489/FUL	Proposed dwelling, relocation of existing access, new landscape planting, part re-grading of existing lake edges, associated access drive and other works, provision of 2no. solar arrays.	Refused	06.12.2017
18/00196/LUPRO P	Replace current access point with new access 22 metres to the east.		16.03.2018

4. Relevant Policies / Government Guidance

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

HG1 Housing Provision

HG6 Dwelling Size and Type

HG9 Private Amenity Space
COM6 Provision of Recreational Open Space for New Residential Development
COM18 Ardleigh Reservoir
EN1 Landscape Character
EN6 Biodiversity
EN6A Protected Species
EN11A Protection of International Sites European Sites and RAMSAR Sites
TR1A Development Affecting Highways
TR7 Vehicle Parking at New Development
Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)
SPL1 Managing Growth
SPL2 Settlement Development Boundaries
SPL3 Sustainable Design
LP1 Housing Supply
LP2 Housing Choice
LP3 Housing Density and Standards
HP5 Open Space, Sports & Recreation Facilities
PPL3 The Rural Landscape
PPL4 Biodiversity and Geodiversity
PPL13 Ardleigh Reservoir Catchment Area
Local Planning Guidance
Essex County Council Car Parking Standards - Design and Good Practice
Tendring Landscape Character Assessment

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 (including Site Description and Proposal)

Site Description

The application area is approximately 0.9 hectares within a larger site of 2.9 hectares located in a rural area to the south-west of the village of Ardleigh and to the north east of Colchester. The site is situated on the northern side of Crown Lane North which already has a number of established houses set in generous grounds well screened by mature hedges and trees. The site is well screened from the immediate neighbours with established hedges and trees and focuses on a sunken lake formed from a gravel pit excavated in the 1940s. Immediately to the west of the site is a large detached house (Trefoil) with substantial grounds backed to the west by an open field. To the east is a large house called Whinstones set within large grounds overlooking a lake, also a former gravel pit.

The site itself is formed of a grass meadow area and orchards within its southern and western areas and an area utilised for crop growing with a long-established barn in its northern corner. The lake is located centrally and set 3-4m below the rest of the site ground level. The eastern part of the site is characterised by managed woodland.

The site is located outside of any settlement development boundary in both the saved and emerging local plans.

The site is served by an existing access subject of a Lawful Development Certificate reference 18/00196/LUPROP approved on 16th March 2018.

Description of Proposal

Proposed dwelling, part re-grading of existing lake edges, 2no. solar arrays, associated works including new landscape planting and area of hardstanding.

Assessment

The main considerations are;

- Planning and Appeal History (and material changes);
- Principle of Development;
- Access, Parking and Highway Safety;
- Residential Amenities;
- Biodiversity;
- Trees and Landscaping;
- Financial Contribution – Open Space/Play Space;
- Financial Contribution – RAMS; and,
- Representations.

Planning and Appeal History (and material changes)

This application follows a previous refusal for a very similar application under planning application reference 17/01489/FUL refused on 6th December 2017. The application proposed a new dwelling, relocation of existing access, new landscape planting, part re-grading of existing lake edges, associated access drive and other works, provision of 2 solar arrays.

The previous application was submitted in reference to the provisions of paragraph 55 of the NPPF 2012 and it was therefore assessed against this criteria. This has now been superseded by similar wording in paragraphs 77, 78 and 79 of the updated Framework 2019.

In summary, the planning application was refused on the following grounds;

- Site is located outside any settlement development boundary as defined within the adopted and emerging Local Plans.
- Paragraph 55 was highlighted as a primary policy consideration which states that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances such as, amongst other things, the exceptional quality or innovative nature of the design of the dwelling. It goes on to state that such a design should;
 - be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
 - reflect the highest standards of architecture;
 - significantly enhance its immediate setting; and
 - be sensitive to the defining characteristics of the local area.
- The extent of built development would be substantial and would not enhance the setting as compared with the current use and appearance of the site, let alone significantly enhance it.
- The site is enclosed by dense vegetation meaning that few public views are afforded into the plot. As such there would be no explicit provision for public access or wider education following construction. As a consequence the development would be hidden from view and not help to raise standards of design in the rural vicinity.
- The Council were not persuaded that the development represented innovative design or exceptional quality and therefore would be contrary to the provisions of the former paragraph 55 of the NPPF 2012 and other relevant local plan policies due to the isolated rural location of the site.

The application was dismissed at appeal under reference APP/P1560/W/18/3203095.

The Inspector highlighted the aims of the new wording set out within paragraphs 77 to 79 as follows;

- Framework paragraph 77 says 'In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local need'. Thus the main thrust of rural exception policy is to meet a local need for affordable housing. This proposal would not meet such a need.

- Paragraph 78 says 'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.'
- Paragraph 79 says 'Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply': in this case (e) 'the design is of exceptional quality'. Following the Court's decision in the Braintree case (Braintree District Council v SSCLG and others [2017] EWHC 2743 (Admin) and [2018] EWCA Civ 610.), made after the application was decided, the appellant now argues that the site is not in an isolated location so 'the special circumstances contained in paragraph 55 (79) need not be identified'.

The Inspector was in agreement with the new argument presented by the applicant that 'The site lies off a country lane just beyond the edge of Colchester, not far from a major road junction, a business park, a hotel and other facilities, and is set among a scattering of a few other dwellings. It is by no means remote or isolated. Since Framework paragraph 79 (previously paragraph 55) applies specifically to isolated new homes in the countryside, by definition it does not apply to this proposal.'

On this basis, the Inspector did not assess the development under the same grounds as set out within the Council's reasons for refusal. The assessment of the appeal was taken as follows;

'The site is not part of a smaller settlement, however defined, where development might share support for local services with another smaller settlement or contribute to social sustainability because of its proximity to other homes. It is not located where it would enhance or maintain the vitality of rural communities, nor does it fall within the areas designated by planning policies designed to identify opportunities for villages to grow and thrive. The proposal does not therefore come within the provisions of Framework paragraph 78 and so falls to be considered under the relevant policies of the local development plan.'

Since this application and appeal decision the previously proposed new access has been constructed as permitted development granted through a Lawful Development Certificate on 16th March 2018 under reference 18/00196/LUPROP. This no longer forms part of the development proposal for the new dwelling.

In addition, since the appeal decision, the Council are no longer able to demonstrate a 5 year housing land supply and Paragraph 11(d) is engaged introducing a 'tilted balance' in favour of the proposal as covered in more detail below.

Principle of Development

The appeal decision is of primary relevance and forms a material consideration of significant weight confirming that the proposal does not come within the provisions of Framework paragraph 78 and so falls to be considered under the relevant policies of the development plan unless other material considerations indicate otherwise. The Framework is a material consideration. The appropriate assessment is set out below with the conclusions of the Inspector referenced where appropriate.

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 report, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination in Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

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

- Assessment of Sustainable Development

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. In this instance, the appeal decision for the site constitutes a material planning considerations relevant to the assessment of this new application.

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 and refer to the appeal decision as appropriate.

- economic;
- social, and;
- environmental roles.

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

In paragraph 25 of the appeal decision the Inspector concluded that the proposal would not achieve the economic objective of sustainable development in a rural area. The discussions on this point at paragraph 7 are limited stating that 'The site is not part of a smaller settlement, however defined, where development might share support for local services with another smaller settlement or contribute to social sustainability because of its proximity to other homes. It is not located where it would enhance or maintain the vitality of rural communities, nor does it fall within the areas designated by planning policies designed to identify opportunities for villages to grow and thrive.'

On this basis, officers consider the economic benefits from the development are very limited due its location. The delivery of a single dwelling only minimises the economic benefits. Additionally, there are no guarantees that the building materials and tradespeople will be locally sourced further diminishing the potential economic benefits of the development.

- Social

The emerging Local Plan 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. Ardleigh 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 2013-2033 and Beyond Publication Draft (June 2017) in recognition of its size and small range of local services. It is accepted that each of these smaller rural settlements

can achieve a small scale increase in housing stock over the plan period. To allow for this to happen, Settlement Development Boundaries have been drawn flexibly, where practical, to accommodate a range of sites both within and on the edge of villages and thus enabling them to be considered for small-scale residential 'infill' developments. With this in mind, the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) settlement development boundary has been marginally extended.

In paragraph 11 of the appeal decision the Inspector recognises the relevance of the hierarchy in the assessment of the development stating that that Policy QL1 sets out a hierarchy of development locations, with new development to be concentrated on the larger urban areas where accessibility to employment, shops, means of transport and other facilities is maximised. In the smaller towns and villages, limited development consistent with local community needs will be permitted. The settlement boundaries have been drawn tightly around settlements to protect their countryside setting. This reflects the government's core planning principles, set out in the Framework, of genuinely plan-led sustainable development that takes account of the different roles and character of different areas, promoting the vitality of the main urban areas while recognising the intrinsic character and beauty of the countryside.

In this instance, the site is located approximately 1.3 km from the Colchester fringe and approximately 2.5 km from the defined Ardleigh Settlement Development Boundary. Almost the full length of both routes are not served by footpaths or street lighting or are unsafe for pedestrians due to the nature of the road. There are no bus stops near the site.

In this regard, there is no access to day to day needs within a practical or safe walking distance. Therefore, the occupants of the proposed dwelling would be car dependant failing to promote sustainable modes of transport and failing to meet the social strand of sustainable development.

- Environmental

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.

The Inspector describes the site as 'Crown Lane North has a strong rural character, with a few individual dwellings set well back within mature trees. It is a 'protected lane', subject to ELP policy PPL3. The 0.9 Ha site is part of a 2.9 Ha smallholding with access from Crown Lane North. Much of the larger plot is occupied by a lake, a former gravel pit, which is fringed by a mix of young, early mature and mature trees. The remainder of the land is generally unkempt grassland, although a small fenced plot is under cultivation. The perimeter of the land is fairly well screened by trees, although a new entrance, necessarily more open, would be formed from the lane. The proposed house, at the end of a long driveway, would be sited at the northern bank of the lake.'

At paragraph 12 of the appeal decision, the Inspector states, Policy EN1 seeks to protect the quality of the district's landscape and its distinctive local character. While overall the Framework has a more nuanced approach to the protection of the countryside, this too reflects the core principle requiring recognition of its character and natural beauty. In addition at paragraph 16 ELP policy PPL3 is intended to maintain the District's attractive rural environment and to protect the rural landscape from development which would cause overriding harm to its character and appearance.

The Inspector concludes at paragraph 21 and 22 that the site lies outside any defined settlement boundary so the proposal conflicts with TDLP policy QL1 and ELP draft policies SPL1 and SPL2. These policies direct major development to the strategic urban centres and draw a tight boundary

around the smaller settlements in order to limit development to generally small-scale infill sites consistent with local community needs. This is to protect the countryside setting of the smaller settlements and to protect and enhance the character and openness of the countryside. This proposal would not be consistent with those objectives. Any built development in the countryside, by definition, leads to a loss of landscape and an alteration of landscape character.

Paragraph 24 of the appeal decision states that the character and integrity of the protected lane would be seriously compromised by the construction of a new access. This has been constructed via a lawful development certificate.

Paragraph 24 goes on to say that the 'domestication' of the landscape and, despite screen planting, the presence of new built development in it would be evident from the highway. This would cause significant harm to the distinctive local character of Crown Lane North and to the character and appearance of the rural landscape, in conflict with TDLP policy EN1 and ELP policy PPL3.

Having regard to the appeal decision, the development is considered contrary to the environmental objective of sustainable development.

Landscape/Trees Impact

The application site is not within the Ardleigh Conservation Area and is not affected by any Tree Preservation Orders (TPO's). Part of the land is open grassland and a large part around the lake is well populated with a mixed age range of young, early mature and mature trees.

It would be necessary for the applicant to show how retained trees will be protected for the duration of the construction phase of any planning permission that may be granted. This information should be in accordance with BS5837 2012: Trees in relation to design, demolition and construction: Recommendations.

In terms of its potential impact on the character and appearance of the local landscape character it should be noted that the application site is situated in the north western corner of The Bromley Heaths Landscape Character Area (LCA) as defined in the Tendring District Council Landscape Character Assessment. The land is just to the north of the Ardleigh Valley System LCA. Crown Lane North has a strong rural character but the influence of the mineral extraction operations on the adjacent land cannot be ignored. In this respect the character of the site frontage with the highway will be of primary significance as the other boundaries could be well screened by supplementary planting.

It is important to recognise that Crown Lane North is a 'Protected Lane' and that any development proposal will need to ensure that the character and integrity of the lane is not compromised by the development of the land. The upgrading of the existing vehicular access may not have required planning permission but it has an urbanising impact on the character of Crown Lane North. It has however removed the need for an additional access point to be created.

Soft landscaping could be secured by condition to ensure that the proposed dwelling sits comfortably in its location and to mitigate the potential harm to the character and appearance of the area. However, this would not overcome the landscape harm identified above.

Residential Amenities

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.

The proposed dwelling is situated a sufficient distance from neighbouring residential properties not to result in any significant adverse impact that would warrant refusal of application.

Access, Parking and Highway Safety

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.

Officers consider that means of access, turning and parking available on site to serve a single dwelling is sufficient and in excess of the requirements within the Council's current adopted Parking Standards.

Essex County Council Highway Authority raise no objection subject to conditions.

Biodiversity

A Preliminary Ecology Appraisal has been submitted which concludes the following;

- The habitats present on the site are of no significant conservation value in themselves and the site would not qualify as a Local Wildlife Site, being of no more than "site" value.
- Proposals for habitat creation and enhancement include: i) Creation of 2500 m² acid grassland, 900 m² of exposed sandy ground for invertebrates and 80 m² of biodiverse roof; ii) Planting of 1900 m² native trees and shrubs, 900 m² of wildlife attracting border planting and 100 metres of native species hedgerow; iii) Restore 1800m² of orchard; iv) Enhancement of existing grassland and woodland areas and of the gravel pit lake using conservation management
- The two former agricultural buildings on site were found to have no suitable roosting opportunities for bats. Four trees within the planning boundary were assessed as having moderate to high potential to support bat roosts. No direct impacts are anticipated although any felling or lopping work would have to be preceded by a climbing inspection carried out or supervised by a suitably qualified bat ecologist. Recommendations include using low and downward facing lighting to prevent excessive illumination of the lake and boundary trees and installation of artificial bat roosts either within the building or boxes in suitable trees.
- The impact area contains some suitable habitat for reptiles and Grass Snake was previously recorded during a 2017 reptile survey. Management of the grassland habitats within the impact areas will ensure that Grass Snakes are not impacted by the works; habitat creation measures will result in an overall net gain in suitable reptile habitat post-construction.
- The opportunities for nesting birds are concentrated within the site boundary but include internal shrubs and trees, some which will be impacted by the proposals. Any clearance of shrubs and trees should be carried out outside of the main breeding season (i.e. outside the period March to August, inclusive) to avoid damaging or destroying any active nests; otherwise, an ecologist would have to be present to survey for active nests prior to any such works.
- The site is not considered suitable for Species of Principal Importance in England (SPIE), with the exception of Hedgehogs and birds including Song Thrush and Dunnock. Hedgehogs would not be affected by the proposals and SPIE birds are protected by measures safeguarding nesting birds. The site is not considered suitable for other protected species such as Great Crested Newts, Dormice and Water Voles, and no signs of Badger setts were seen during the site visit.

In the event of an approval a condition would be attached to secure a full ecological mitigation/enhancement strategy to cover the findings of the surveys noted above.

Financial Contribution – Open Space/Play Space

The Council's Open Space Team has been consulted in accordance with the requirements of Saved Policy COM6 of the adopted Tendring District Local Plan and Draft Policy HP5 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Due to the distance from the proposed development to the nearest play area, no contribution is being requested from Public Realm on this occasion.

Financial Contribution - RAMS

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.

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. The contribution is secured by unilateral undertaking.

The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 5900 metres from Stour and Orwell Estuaries Ramsar and SPA. Since the development is for 1 dwelling only, the number of additional recreational visitors would be limited and the likely effects on the Stour and Orwell Estuaries from the proposed development alone may not be significant. However, new housing development within the Zoi would be likely to increase the number of recreational visitors to the Stour and Orwell Estuaries 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.

This application is accompanied by a unilateral undertaking securing a proportionate financial contribution in line with the Essex Coast RAMS requirements to ensure that this proposal will not have an adverse effect on the integrity of the nearby European sites from recreational disturbance, when considered 'in combination' with other development. Therefore, this does not form a reason for refusal.

Representations

Ardleigh Parish Council supports the design and concept for this innovative and sustainable dwelling. However, the property would fall outside the settlement development boundary and therefore Ardleigh Parish Council objects on the grounds that no new-builds outside the development boundary are supported.

Should permission be granted a transport management plan should be established to avoid damage to ancient hedging and trees in Crown Lane North.

1 letter of objection has been received. The concerns raised can be summarised as follows;

- Out of keeping.
- Overbearing and loss of privacy.
- Set a harmful precedent for further residential development in this location.
- No material change since last application to warrant approval.

The principle of development and impact has been addressed in the main report above.

Conclusion

Whilst it is recognised that the design of the house is of high quality and the proposals for habitat creation and enhancement works would increase the ecological and biodiversity value of the site, these are not factors that can overcome the basic policy objections or sufficiently mitigate the landscape harm. Regardless of the Council's 5 year housing land position, the application fails to achieve the economic, social and environmental objectives of sustainable development and there are no public benefits or exceptional circumstances that outweigh the identified harm.

The application is therefore recommend for refusal.

6. Recommendation

Refusal - Full

7. 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 report, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination in Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

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

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.

- Economic

The site is not part of a smaller settlement, however defined, where development might share support for local services with another smaller settlement or contribute to social sustainability because of its proximity to other homes. It is not located where it would enhance or maintain the vitality of rural communities, nor does it fall within the areas designated by planning policies designed to identify opportunities for villages to grow and thrive. The economic benefits from the development are very limited due its location. The delivery of a single dwelling only minimises the economic benefits.

- Social

The emerging Local Plan 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. Ardleigh 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 2013-2033 and Beyond Publication Draft

(June 2017) in recognition of its size and small range of local services. It is accepted that each of these smaller rural settlements can achieve a small scale increase in housing stock over the plan period. To allow for this to happen, Settlement Development Boundaries have been drawn flexibly, where practical, to accommodate a range of sites both within and on the edge of villages and thus enabling them to be considered for small-scale residential 'infill' developments. With this in mind, the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) settlement development boundary has been marginally extended.

In this instance, the site is located approximately 1.3 km from the Colchester fringe and approximately 2.5 km from the defined Ardleigh Settlement Development Boundary. Almost the full length of both routes are not served by footpaths or street lighting or are unsafe for pedestrians due to the nature of the road. There are no bus stops near the site.

In this regard, there is no access to day to day needs within a practical or safe walking distance. Therefore, the occupants of the proposed dwelling would be car dependant failing to promote sustainable modes of transport and failing to meet the social strand of sustainable development.

- Environmental

The environmental objective of sustainable development as set out within paragraph 8 of the NPPF 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.

Any built development in the countryside, by definition, leads to a loss of landscape and an alteration of landscape character. The 'domestication' of the landscape and, despite screen planting, the presence of new built development in it would be evident from the highway. This would cause significant harm to the distinctive local character of Crown Lane North and to the character and appearance of the rural landscape, in conflict with saved Policy EN1 of the adopted Tendring District Local Plan and draft Policy PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Whilst it is recognised that the design of the house is of high quality and the proposals for habitat creation and enhancement works would increase the ecological and biodiversity value of the site, these are not factors that can overcome the basic policy objections or sufficiently mitigate the landscape harm. Regardless of the Council's 5 year housing land position, the application fails to achieve the economic, social and environmental objectives of sustainable development and there are no public benefits or exceptional circumstances that outweigh the identified harm.

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 for the refusal, approval has not been possible.