

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	30/10/19
Planning Development Manager authorisation:	AN	31/10/19
Admin checks / despatch completed	CC	06/11/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	EXL	06/11/19

Application: 19/01377/FUL **Town / Parish:** Ardleigh Parish Council

Applicant: S Wright

Address: Land adjacent to Hammonds Farm Bromley Road Ardleigh

Development: Erection of two detached properties with garaging, parking and turning facilities, and landscaping access from Bromley Road.

1. Town / Parish Council

Ardleigh Parish Council

Ardleigh Parish Council objects to the application along with other developments proposed on land off Bromley Road. There appears to be an increase in proposed development along this road with potential detrimental effects on traffic and infrastructure. The Council felt that the erection of these two dwellings would cause visual harm to the appearance of the local landscape character and contribute to the gradual erosion of the countryside.

2. Consultation Responses

ECC Highways Dept

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 the first occupation of the proposed dwelling, the proposed vehicular access shall be constructed to a width of 5.5m straight for the first 6.0m within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

2. No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

3. Prior to the first use of the proposed access, details of the construction and future maintenance of the necessary bridging or piping of the drainage ditch/watercourse shall be submitted to and

approved in writing by the Lead Local Flood Authority (Essex County Council)

Reason: To prevent or reduce the risk of flooding of the adjoining highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

4. Prior to the proposed access being brought into use, vehicular visibility splays of 215m by 2.4m by 215m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

5. Prior to the occupation of any of the proposed development the internal road layout shall be provided in accord with Drawing Numbered 4103-121 (Block plan).

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

6. The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in Drawing Numbered 4103-121 (Block plan). The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

7. Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

Advisory: The roadside trees may require their crowns raising to provide the required visibility splays, if necessary, the height required between ground level and the lowest limb / branch would be 2.6m.

Informative1: 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.

3. Planning History

99/00985/FUL	Single storey rear extension and sun lounge	Approved	11.08.1999
04/00312/FUL	Two storey extension to rear of property, roof and study over existing garage	Approved	05.04.2004
75/00421/FUL	Boundary walls along northern and north eastern boundaries	Approved	20.06.1975
16/00691/FUL	Erection of single storey outbuilding and change of land use from agricultural to garden.	Approved	24.06.2016
16/01104/FUL	Proposed single storey extension to south-west elevation to comprise lobby, wet room, kitchen and dining/breakfast area.	Approved	05.09.2016
17/02132/FUL	Erection of two detached properties with garaging, parking and turning facilities, and landscaping access from Bromley Road.	Refused (Dismissed at appeal)	02.02.2018

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG9 Private Amenity Space

HG14 Side Isolation

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL3 Sustainable Design

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

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

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

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

5. Officer Appraisal

Site Description

The application site is land adjacent to Hammonds Farm, Bromley Road, Ardleigh. The site falls outside of a recognised Settlement Development Boundary as stated within the saved Tendring Local Plan 2007 and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). To the east and west of the site are detached residential properties, however, the surrounding area can generally be characterised as rural, with large open fields beyond to all sides.

Description of Proposal

This application seeks full planning permission for the erection of two detached residential dwellings. Both dwellings are to be 1.5 storey traditional style dwellings, serving four bedrooms, and each with a single garage.

Site History

Under planning reference 17/02132/FUL, the same scheme on this application site was refused at a time where the Council was able to demonstrate a five year housing land supply. The site was not considered to be within a sustainable location, while a second reason for refusal focussed on the development being viewed as having a significant urbanising effect on the character of the area and resulting in the unplanned advance of urbanisation into the countryside eroding the rural character of the lane and resulting in a significant detrimental impact upon the rural appearance of the area.

This decision was then dismissed at appeal (reference APP/P1560/W/18/3205410, dated 17 January 2019), where the Inspector stated "*I conclude that the development is not a suitable location for two dwellings, having regard to accessibility to shops and services and that the development would result in harm to the character and appearance of the countryside and rural settlement contrary to the provisions of Saved Policies QL1, QL9 and EN1 of the Local Plan, which jointly seek to control development in the countryside and give priority to development with access to local facilities and services.*"

Under planning reference 16/00861/OUT, outline planning permission was refused for the erection of two detached dwellings to the north-east of the site, due to the site failing to meet the social and environmental arms of sustainability. This decision was appealed and under appeal reference APP/P1560/W/16/3163506 the Council's decision was upheld and the appeal dismissed. Under planning reference 17/01846/FUL, planning permission was again refused for the erection of two

detached dwellings at a time where the Council was able to demonstrate a five year housing land supply. The site was again not considered to be within a sustainable location, while a second reason for refusal focussed on the development being viewed as a harmful and discordant incursion into the countryside, thereby urbanising the site and harming the areas rural character.

This decision was also dismissed at appeal (reference APP/P1560/W/18/3204985, dated 16 January 2019), with the Inspector concluding *"the appeal site would not be a suitable location for two dwellings, having regard to accessibility to shops and services and that the development would result in harm to the character and appearance of the countryside and rural settlement."*

Assessment

1. Principle of Development

The application site lies outside of a Settlement Development Boundary as defined within the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.

The National Planning Policy Framework 2019 (NPPF) requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

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

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

Therefore, at this present time, it is correct to assess the housing development on its merits against the sustainable development objectives set out within Paragraph 8 of the NPPF. The economic objective, a social objective and an environmental objective are therefore assessed below.

Economic:

It is considered that the proposal for two dwellings would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants using the nearby facilities, and so meets the economic arm of sustainable development.

Social:

It is acknowledged that under recent appeal decision APP/P1560/W/18/3218389 (dated 25 July 2019) the Inspector allowed a single residential dwelling to be approved to the north-east of this application site. Within the Inspectors comments they stated:

"The appeal site is around 1.5 miles from the settlement development boundary of Ardleigh, on the fringes of Colchester. While there are agricultural fields nearby, the proposed dwelling would be associated with other detached dwellings in the area along Spring Valley Lane and would not constitute an isolated home in the countryside for the purposes of the Framework.

There is a bus stop at the junction of Spring Valley Lane with Bromley Road providing hourly services to Colchester and Frinton-on-Sea. Being on the fringes of Colchester, a bus journey from the appeal site to that town would not be unreasonably lengthy in order to access the large range of services and facilities that it provides. The appellant has also said that the appeal site is very close to a convenience store, a public house and schools but has not been explicit as to where these are located.

There is therefore some opportunity to access service and facilities without reliance on the motor car, although these would be modest. I also agree with the Inspector in the previous appeal APP/P1560/W/17/3169159 that the walk to access them down an unlit country lane with very limited footway provision would make that an unattractive option, particularly in poor daylight."

However, it is important to note that despite seemingly suggesting the site does not meet the social strand of sustainability, in weighing up the planning balance the Inspector concluded that *"the adverse impacts of the proposal would not significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole."*

While this appeal decision is an important consideration of this application, it is equally important that there has been a previous appeal decision on the application site the subject of this application. Within appeal decision reference APP/P1560/W/18/3205410 (dated 17 January 2019) on this application site, the Inspector stated the following with regards to the sites social credentials:

"The site is located over a kilometre from the nearest services in the local centre of the Greenstead Estate on the edge of Colchester, which provide facilities including a small supermarket, schools, medical services, a public house and take-away restaurants. The nature of Bromley Road and the distance involved would be likely to deter pedestrians and cyclists and so residents of the site would rely heavily upon the private car to meet their day-to day needs. The bus service, being at hourly intervals, provides only an infrequent service and so does not mitigate the absence of access to services and facilities within walking or cycling distance to provide for the day-to-day needs of residents" and "I conclude that the development is not a suitable location for two dwellings, having regard to accessibility to shops and services".

Furthermore, under planning appeal reference APP/P1560/W/16/3163506 (dated 20 February 2017) on the site to the north-east, the Inspector stated *"The nearest services appear to be in Colchester but this would require a walk along Bromley Road, which is devoid of pavements and is reasonably straight with apparently high vehicle speeds. As such, it is not a route along which pedestrians should be encouraged to travel frequently.*

The distance and unappealing walking environment is likely to deter future residents from walking to local facilities. This would be especially so for the more vulnerable pedestrians such as parents with young children. Given the distance and inconvenient walking environment, I consider it highly likely that future residents would be predisposed to rely on a private car to access everyday services and facilities. Cycling could be an option for some future residents, but not all, depending on mobility and proficiency. Thus reducing the reliance that can be placed on this mode of transport as an alternative to a private car.

There is a bus stop near to the appeal site and the Council suggest that there is an hourly service between Colchester and Frinton on-Sea. Nevertheless, I am not satisfied that a bus service mitigates for the absence of facilities within a comfortable walk of the appeal site, as the timings of the bus service may not always be convenient for future occupants of the appeal scheme, especially if they have needs arising at short notice. As such, the proposed development would be a functionally isolated development in the countryside due to its limited connectivity to everyday services and facilities.

In this instance, the isolation would result in significant harm when considering the social and environmental dimensions of sustainable development. It would leave future occupants of the proposed dwellings largely reliant on private vehicles with limited travel choices. It would also undermine the Framework's aim of locating new dwellings in rural areas close to services and facilities as a means of supporting the vitality of rural communities and promoting sustainable transport as a means of reducing greenhouse gas emissions."

Moreover, at a second appeal decision on this site (reference APP/P1560/W/18/3204985, dated 16 January 2019) the Inspector again concluded that the site was not socially sustainable: *"I conclude that the appeal site would not be a suitable location for two dwellings, having regard to accessibility to shops and services."*

To conclude, there have been numerous appeal decisions on the application site the subject of this application, as well as on sites in close proximity. While it is acknowledged a recent appeal decision was allowed for one dwelling to the north, it is also noted there are contrasting views from multiple appeal decisions. On balance therefore, more weight is attributed to the previous appeal decision on this application site, and it is considered that the site fails to meet the social arm of sustainability.

Environmental:

In regard to the environmental impact this is considered below under the impact upon the rural character.

Impact upon Rural Character

The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, in indivisible from good planning, and should contribute positively to making places better for people. Paragraph 127 of The National Planning Policy Framework (2019) states that planning policies and decisions should ensure developments will add to the overall quality of the area, are visually attractive and are sympathetic to local character and history.

Policy QL9 and EN1 of the Tendring District Local Plan 2007 (Saved Plan) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.

Under recent appeal decision APP/P1560/W/18/3218389 (dated 25 July 2019) the Inspector, in allowing a single dwelling to the north of the site, stated *"The proposed dwelling would be set back from the road to allow for landscaping and retention of existing hedgerows and trees along the frontage. It would therefore not dominate the country lane and views of the sympathetic design, which in any respect would be partially hidden and softened by the vegetation, would reinforce a sense of appropriately traditional residential development along the lane. Being between detached properties to its north and south, and broadly on the same building line, I do not consider that the development would encroach into the countryside."*

However, it is important to note that within the most recent appeal decision on this site (APP/P1560/W/18/3205410, dated 17 January 2019) the Inspector stated:

"Whilst there are some existing properties in the vicinity of the site these are generally spread out and the area has an overall rural appearance. Elements of the development would be screened from the road and it is noted that the appellant states the intention to provide planting to reinforce

the existing hedge. However, much of the hedge planting is deciduous and so screening would be seasonal.

The two dwellings would fill the existing gap between No 3 New Cottages and Hammonds Farm to a significant degree, and such infilling would produce a cluster of residential development which would change the rural character of the locality to a more urban form" and "the development would result in harm to the character and appearance of the countryside and rural settlement."

The Council therefore maintains the stance adopted within 17/02132/FUL where environmental harm was also identified as follows:

The two dwellings would front onto Bromley Road, which is a rural country lane located to the east of the main bulk of residential development located within Colchester. There are some detached dwellings situated in the surrounding area but overall it can be characterised as rural. The application site takes on a form that is mainly screened from the lane by mature hedging. To the rear of the site the land forms open agricultural fields. Consequently, the absence of significant built form in close proximity to the site, the narrow nature of the lane in this location and the presence of mature roadside hedging ensures the site and its immediate surroundings take on a strong rural character and appearance. As such the resultant dwellings would have a significant urbanising effect on the character of the area and result in the unplanned advance of urbanisation into the countryside eroding the rural character of the lane and resulting in a significant detrimental impact upon the rural appearance of the area.

Therefore for the reasons given the development would not meet the environmental dimension of sustainable development.

2. Design, Layout and Appearance

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

The submitted plans indicate that the two dwellings will both be detached, 1.5 storey with a traditional design, served via a joint access from Bromley Road to the south. The two dwellings are considered to be of good design, incorporating key features including front and rear dormers, chimneys and a brick plinth, which all contribute to the areas rural setting.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of three bedrooms or more should be a minimum of 100 square metres. The information that has been supplied demonstrates that there is sufficient space within the site to ensure there will be enough private amenity space for the proposed dwellings.

3. Impact to Residential Amenities

Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Given that there is significant separation distance to the nearest residential properties to the east and south, it is not considered that the development of the site would adversely impact upon local resident's amenity in terms of loss of light, noise impacts or the proposal appearing imposing.

4. Highway Considerations

Essex County Council Highways have been consulted as part of this application and have stated they have no objections subject to conditions relating to the width of the private drive, visibility

splays, details of necessary bridging/piping, the use of no unbound materials, the internal road layout and a car parking and turning area.

An additional condition relating to cycle storage provision was requested, however given there is sufficient room within the site to accommodate this, it would not be reasonable to include this as a condition on this occasion.

Further, Adopted Car Parking Standards state there should be minimum provision for two parking spaces measuring a minimum 5.5m x 2.9m or, if being relied upon for a parking space a garage should have minimum internal measurements of 7m x 3m. The submitted plans show the garages to each meet the above standards, while there is sufficient space for the additional parking space to the front of each property.

5. Trees and Landscape Impacts

In order to show that the development proposal could be implemented without causing harm to the trees on the boundary of the application site with the adjacent highway the applicant has provided a detailed Tree Survey and Report, as part of the Planning Statement, that includes a Tree Constraints Plan (TCP). The report is in accordance with BS5837 2012 Trees in relation to designs, demolition and construction: Recommendations.

The report accurately shows the extent of the constraint that the trees are on the development potential of the land. It identifies those trees that would need to be removed or otherwise worked on in order to facilitate the development and describes the way that retained trees will be physically protected during the construction phase of any development that may be granted planning permission.

Only a small Horse Chestnut and a Red Oak that have low visual amenity value would need to be removed along with a centrally situated group of established shrubs.

The applicant has also submitted details of the 'No-Dig' specification for the section of access road that would be within the Root Protection Areas (RPA's) of the retained trees.

If the recommendations contained in the tree report are adhered to then the development of the land can take place without causing harm to the retained trees.

6. Habitats Regulation Assessment

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) in particular the Colne Estuary Ramsar and SPA site, mitigation measures will need to be in place prior to occupation.

A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Other Considerations

Ardleigh Parish Council has objected to the application due to the visual harm and harm to the appearance of the local landscape character.

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

There have been three letters of objection received, with the following concerns:

1. The application does not address previous appeal decisions on this site;
2. Not in a settlement boundary;
3. Harm to areas rural character;
4. Harm to neighbouring amenities;
5. Visual harm to areas character;
6. Overdevelopment of the site; and
7. Highway safety concerns.

In answer to this, points 1, 2, 3, 4, 5 and 7 have been addressed within the main body of the report above. In response to point 6, the site has sufficient amenity and parking requirements and therefore does not represent a form of overdevelopment.

There has also been one letter of support received.

6. Recommendation

Refusal.

7. Reasons for Refusal

- 1 The application site lies outside of a Settlement Development Boundary as defined within the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

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. There are therefore significant doubts about the validity or extent of any housing supply 'deficit', albeit the tilted balance applies. This minimises the reduction in weight to conflict with Policy QL1, as per the Hallam Land judgement, especially in view of the fact that the Council has considerably increased its housing delivery figures in recent years.

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.

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. 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. 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. 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 limited range of local services.

Ardleigh is categorised in emerging Policy SPL1, along with seventeen other villages, as a 'Smaller Rural Settlement' in recognition of its size and relatively small range of local services. Ardleigh and other smaller villages are considered to be the least sustainable settlements for growth and development should normally be restricted to small-scale development only, respecting the existing character and form of the village. The nearest services and facilities are located within the Greenstead Estate. However, this would require a walk along Bromley Road, which is devoid of pavements and is reasonably straight with apparently high vehicle speeds. As such, it is not a route along which pedestrians should be encouraged to travel frequently. As such the location is considered to be amongst one of the least sustainable locations for growth where development will only serve to increase the number of people having to rely on cars to go about their everyday lives failing to meet the socially sustainable strand of sustainability.

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

- 2 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, in indivisible from good planning, and should contribute positively to making places better for people. Paragraph 127 of The National Planning Policy Framework (2019) states that planning policies and decisions should ensure developments will add to the overall quality of the area, are visually attractive and are sympathetic to local character and history.

Policy QL9 and EN1 of the Tendring District Local Plan 2007 (Saved Plan) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.

The two dwellings would front onto Bromley Road, which is a rural country lane located to the east of the main bulk of residential development located within Colchester. There are some detached dwellings situated in the surrounding area but overall it can be characterised as rural. The application site takes on a form that is mainly screened from the lane by mature hedging. To the rear of the site the land forms open agricultural fields. Consequently, the absence of significant built form in close proximity to the site, the narrow nature of the lane in this location and the presence of mature roadside hedging ensures the site and its immediate surroundings take on a strong rural character and appearance. As such the resultant dwellings would have a significant urbanising effect on the character of the area and result in the unplanned advance of urbanisation into the countryside eroding the rural character of the lane and resulting in a significant detrimental impact upon the rural appearance of the area.

- 3 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) in particular the Colne Estuary Ramsar and SPA site, mitigation measures will need to be in place prior to occupation.

A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

8. Informatives

Positive and Proactive Statement

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