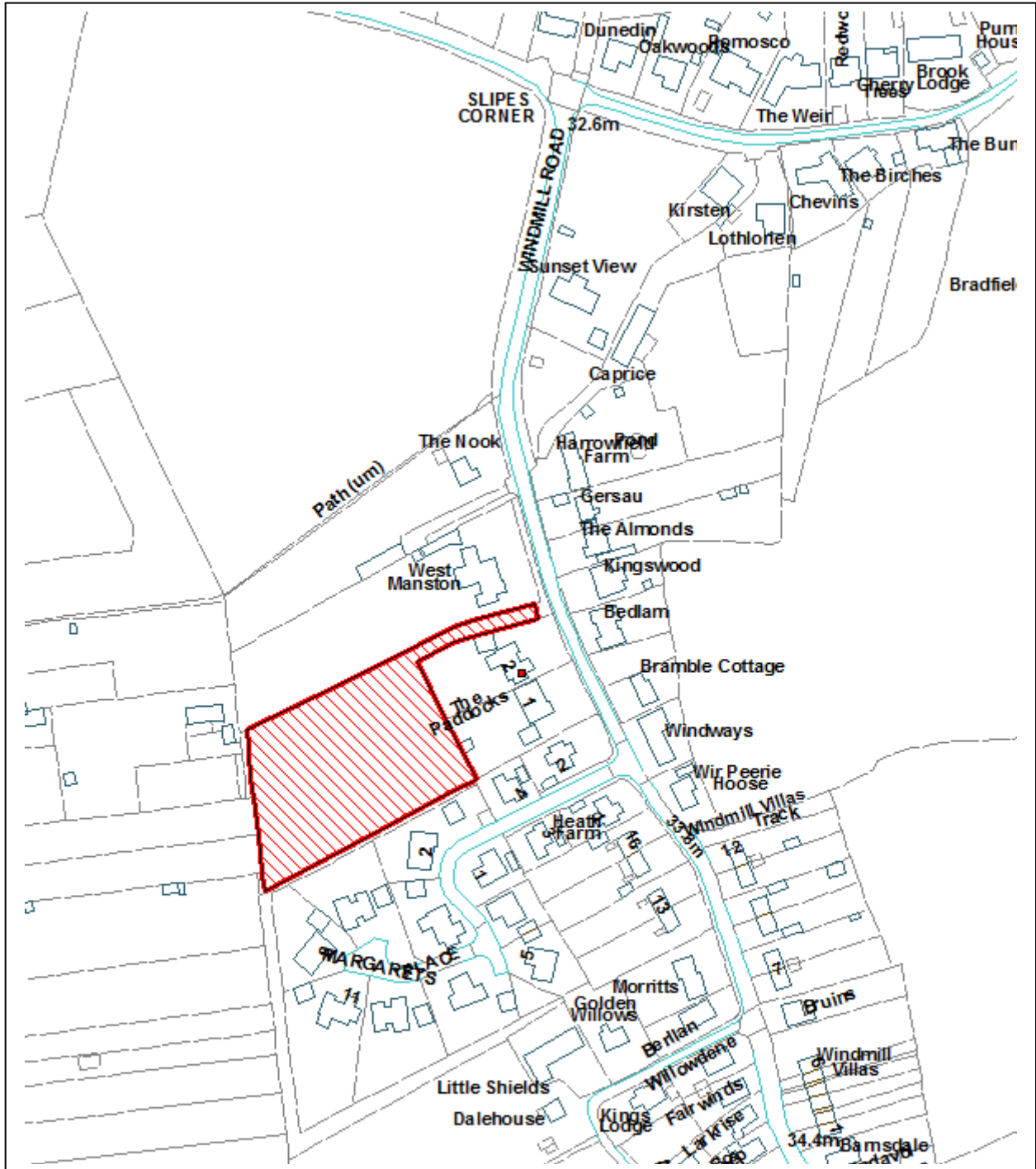


PLANNING COMMITTEE  
19 NOVEMBER 2019  
REPORT OF THE HEAD OF PLANNING

**A.1 PLANNING APPLICATION – 19/00738/FUL – LAND REAR OF 1 & 2 THE PADDOCKS  
WINDMILL ROAD BRADFIELD CO11 2QR**



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**Application:** 19/00738/FUL

**Town / Parish:** Bradfield Parish Council

**Applicant:** ARC LTD

**Address:** Land rear of 1 & 2 The Paddocks Windmill Road Bradfield CO11 2QR

**Development:** Erection of 5no. detached bungalows.

## 1. **Executive Summary**

- 1.1 This application is before the Planning Committee as it was called in by Councillor Fairley on the grounds that the proposal is a form of backland development that will be harmful to neighbours privacy and harmful to the countryside. Issues are also raised that the access point is unsafe and that there is a telegraph pole in front of the access.
- 1.2 The application site falls outside of a recognised settlement development boundary within both the Adopted and Emerging Local Plans. However, given the Council is unable to demonstrate a five year supply of housing, the proposal has been assessed against the economic, social and environmental strands of sustainability.
- 1.3 Following a recent appeal decision it has previously been determined the site is socially acceptable, while the development of five dwellings will bring small economic benefits to the area.
- 1.4 While the scheme does represent a form of backland development, it is in accordance with the requirements of Adopted Local Plan Policy HG13 and Emerging Local Plan Policy LP8.
- 1.5 The development will not result in harm to neighbouring amenities, harm to any trees, and Essex Highways Authority have raised no objections subject to conditions.

### **Recommendation:**

That the Head of Planning be authorised to grant planning permission for the development subject to:-

- a) Subject to the conditions stated in section 8.2

## 2. **Planning Policy**

The following Local and National Planning Policies are relevant to this planning application.

NPPF National Planning Policy Framework February 2019  
National Planning Practice Guidance

Tendring District Local Plan 2007:

COM6 Provision of Recreational Open Space for New Residential Development  
EN1 Landscape Character  
EN6A Protected Species  
EN11A Protection of International Sites European Sites and RAMSAR Sites  
HG1 Housing Provision  
HG9 Private Amenity Space

HG13 Backland Residential Development  
QL1 Spatial Strategy  
QL9 Design of New Development  
QL10 Designing New Development to Meet Functional Needs  
QL11 Environmental Impacts and Compatibility of Uses  
TR1A Development Affecting Highways  
TR7 Vehicle Parking at New Development

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

CP1 Sustainable Transport and Accessibility  
HP5 Open Space, Sports & Recreation Facilities  
LP1 Housing Supply  
LP2 Housing Choice  
LP3 Housing Density and Standards  
LP4 Housing Layout  
LP8 Backland Residential Development  
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.

### 3. Relevant Planning History

15/01726/FUL	Erection of 2 No. detached dwellings and garages.	Approved	22.02.2016
16/00595/DISCON	Discharge of condition 07 (Construction Method Statement) and 09 (Landscaping Scheme) of planning permission 15/01726/FUL.	Approved	17.06.2016

### 4. Consultations

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 occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of obstruction above 900mm at all times. These visibility splays must not form part of the vehicular surface of the access.

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

2. Prior to occupation of the development a vehicular turning facility, as proposed in Block Plan, drawing no. CCWR -01 B 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. Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.3 metres for at least the first 6 metres from the back of the footway and provided with an appropriate dropped kerb crossing of the footway.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

5. All single garages should have a minimum internal measurement of 7m x 3m and all double garages should have a minimum internal measurement of 7m x 5.5m.

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8.

6. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided 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: As the private access road is less than 5.5 metres in width consideration should be given to provide one suitable vehicle passing place within the curtilage of the site at a minimum dimension of 2 metres wide x 7.5 metres in length, adjacent to Plot 1. Details to be agreed in writing with the local Planning Authority, this is to

ensure that medium to large vehicles can pass clear of the limits of the highway.

Informative 2: Prior to the first use of the vehicular access to the development arrangements will need to be made with the respective Statutory Undertakers to arrange for the re-location of the telegraph pole at the existing access so it provides the required width in and out of the development.

Informative 3: 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 4: 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.

## **5. Representations**

- 5.1 Bradfield Parish Council have objected to the application. They have raised numerous concerns relating to the narrow width of the access to the site, which they feel will not be sufficient to cope with 10 cars and visitors associated with the five dwellings. The access also enters onto Windmill Road on a slight bend at its narrowest point, which could result in highway safety issues given traffic on Windmill Road has increased in recent years.
- 5.2 Further concerns relate to the site being backland development with a long narrow track, and it is questioned if there is a need for more bungalows in this location given there has previously been 24 bungalows constructed within Bradfield in the past four years.
- 5.3 There have also been six letters of objection received, with a summary of the concerns raised below:
- The access will not be able to cope with the additional traffic;
  - Concerns where the telegraph pole will be situated;
  - Site is outside of a settlement development boundary;
  - Land has a covenant that states it cannot be developed on;
  - Could set a harmful precedent for more backland development;
  - Will put more pressure on local infrastructure;
  - Loss of character to the area; and
  - Impacts of construction works.
- 5.4 One further letter has been received that is not classed as an objection letter, but questions the use of the land highlighted in blue within the submitted Site Location Plan. In response to this, no information has been provided as to its use; as this area does not form part of the application site there is no requirement for this information to be provided.
- 5.5 There has also been one letter of support received.

## 6. Assessment

### Site Description

- 6.1 The application is located on western side of Windmill Road to the rear of two detached dwellings (1 and 2 The Paddocks) that front Windmill Road. The site is largely laid to grass, however there is a mound of soil on part of the site from the neighbouring development to the south. The site was previously amenity land served by an access road between Number 2 The Paddocks and West Manston to the north. The site is separated from West Manston by a line of conifers. Windmill Road itself contains a mixture of dwelling types, with examples of single and two storey designs.
- 6.2 The site falls outside of a recognised Settlement Development Boundary within the Adopted Tendring Local Plan 2007. Within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft, the access falls within the Settlement Development Boundary for Bradfield, while the rest of the site falls outside.

### Planning History

- 6.3 The land adjacent to the south of the application site has recently been the subject of a number of planning applications. Under planning references 16/00701/OUT and 16/01413/DETAIL planning permission was granted for six dwellings. Then under planning references 16/01614/OUT and 17/00166/DETAIL an additional four dwellings were approved. These 10 dwellings have now been constructed.
- 6.4 Under planning reference 15/01726/FUL, planning permission was granted for two dwellings, which have now been constructed and are known as 1 and 2 The Paddocks.
- 6.5 Under planning reference 17/01065/FUL, permission was initially refused for the erection of one dwelling, on the grounds that the site fell outside of a recognised settlement development boundary and the removal of the hedgerow required for visibility splays would erode the rural character of the road and would therefore result in overriding harm to the character and appearance of the surrounding area.
- 6.6 However, under appeal reference APP/P1560/W/17/3184415 (Land adjacent to Sunset View, Windmill Road, Bradfield, dated 21 February 2018) this decision was allowed, with the Inspector stating that *“On balance . . . I find that the adverse impacts in this case, arising from the location of the appeal site outwith the development boundary for Bradfield, do not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.”*

### Proposal

- 6.7 This application seeks full planning permission for the erection of five detached bungalows. The layout plan shows the bungalows to be served by three bedrooms, garages and accessed from Windmill Road in a col-de-sac arrangement.

### Principle of Development

- 6.8 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.
- 6.9 Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.

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

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

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

6.13 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:

6.14 It is considered that the proposal for five 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:

6.15 Socially, it is necessary to consider the proximity to services and facilities, such as healthcare, schools, convenience shopping and jobs and whether these would be accessed by sustainable modes of transport. Bradfield Heath has only a small convenience store and a good bus route (as established by the Council's "Establishing a Settlement Hierarchy", 2016). Bradfield Heath coalesces with Bradfield, which has a primary school. At the application site access onto Windmill Road there are pedestrian footpaths that lead to the bus stops, primary school and a shop located nearby. As such the proposed site is deemed to be socially sustainable.

6.16 This view is reinforced by appeal decision APP/P1560/W/17/3184415 (Land adjacent to Sunset View, Windmill Road, Bradfield). Within this the Inspector stated the following:



*“Whilst, as a smaller rural settlement, Bradfield may not have the full range of services and facilities that might be required by residents on an everyday basis, I saw a primary school, public houses, a church, local shop etc. Moreover, the Council clearly considers it a sufficiently sustainable settlement to warrant in principle at least, extending the development boundary in the vicinity of the appeal site to accommodate additional development. To my mind, future occupiers would be no more reliant on the private car to access those services and facilities required on an everyday basis than those living in the immediately adjacent properties, properties that the Council considers appropriate for inclusion within the proposed revised settlement boundary . . . I therefore conclude that, in principle, the appeal site is an appropriate location for new residential development and that allowing the appeal would not undermine the District’s sustainable pattern for growth.”*

Environmental:

- 6.17 The environmental role is about contributing to protecting and enhancing the natural built and historic environment which is considered below under Impact on Surrounding Area.

Impact on Surrounding Area:

- 6.18 The development involves the construction of five dwellings in a 'backland' location to the rear of the established residential frontage along Windmill Road. With regards to Policy HG13 of the 2007 Local Plan (and echoed in policy LP8 of the draft Local Plan), it states proposals for the residential development of backland sites must comply with the following criteria:
- i. the site lies within a defined settlement development boundary and does not comprise land allocated or safeguarded for purposes other than a residential use;
  - ii. where a proposal includes existing private garden land which would not result in less satisfactory access or off-street parking arrangements, an unacceptable reduction in existing private amenity space or any other unreasonable loss of amenity to existing dwellings;
  - iii. a safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will be discouraged;
  - iv. the proposal does not involve "tandem" development using a shared access;
  - v. the site does not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;
  - vi. the site is not on the edge of defined settlements and likely to produce a hard urban edge or other form of development out of character in its particular setting; and
  - vii. the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development.
- 6.19 The main problems that can arise as a result of backland development include undermining the established character of an area (especially if similar schemes were to be repeated elsewhere in a locality); dwelling plots appearing cramped relative to their surroundings; the fragmentation of established gardens with a loss of mature landscaping; and the infringement of neighbouring residents' amenities. Development behind an established building line can also appear incongruous, particularly with isolated dwellings.

6.20 There must also be proper means of access to backland development, which is safe and convenient for both drivers and pedestrians, with a turning area where necessary to avoid the need for vehicles to reverse onto a public highway. A proposed access should avoid excessive disturbance or loss of privacy to neighbouring residents through, for example, an access drive passing unreasonably close to an adjoining dwelling. The likely frequency of use by vehicular traffic and the suitability of the access for service vehicles and the emergency services will also be relevant material considerations.

6.21 In respect of the policy criteria noted above the development is considered to meet the requirements as follows;

i. the site is not located within a defined settlement boundary in either the adopted or emerging local plans; however is not designated for any particular use;

ii. the plans show that the private amenity areas for all plots will meet the requirements of Policy HG9, while the proposal will not result in loss of any existing private amenity space for 1 and 2 The Paddocks. Further, there is sufficient off-street parking for all dwellings, while the layout has been designed in such a way to ensure significant distance to the nearest neighbouring properties.

iii. the private access would be located to the north-eastern corner of the site, off Windmill Road. While there are neighbouring properties to each side of this access, there is good separation distances to each, while the comings and goings associated with five dwellings is not considered to be excessively harmful. Following recent approvals to the south of the site there is a similar form of development constructed, while the access is currently in situ. Therefore there is not considered to be significant visual harm to the street scene.

It is acknowledged the proposal includes a long and relatively narrow driveway, however given the lack of visual harm to the street scene and that Essex Highways Authority do not object, on balance the identified harm is not considered sufficient to recommend a reason for refusal.

iv. the proposal does not represent a form of tandem development using a shared access.

v. the site is of a regular shape and would not compromise a more comprehensive development solution.

vi. the application site is sited in a backland location between residential development to the east fronting Windmill Road and to the west fronting Straight Road. To the south are recently constructed properties following recent planning permissions. As such the site does not form part of the edge of the settlement and views of the site would be limited from surrounding public vantage points. A public footpath runs to the north but the development would be viewed against the backdrop of existing development to the rear and therefore have minimal visual intrusion. The single storey nature of the properties would further reduce their prominence. As such the development would not adversely impact upon the character or pattern of the settlement and would not form a hard urban edge. The siting of residential development around the plot in question means that the development would not appear as a prominent intrusion into open countryside or out of character.

vii. the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development.

As stated above the proposal would be located amongst existing development, particularly that recently approved adjacent to the south of the site. Given this and the development to

the east and west of the site, the proposal represents an infill development that will not appear out of character or set a harmful precedent.

#### Design, Layout and Appearance

- 6.22 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).
- 6.23 The development will include a total of five dwellings, all of which will be detached, single storey and served by garages. The proposed layout shows a mini cul-de-sac which is largely in-keeping with the development recently approved adjacent to the south. The submitted plans include three different designs, all of which incorporate key features including front gables, bay windows and a brick plinth. These features help to soften the dwellings' appearance and ensure they sit more comfortably within their surrounds.
- 6.24 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 submitted plans show that this will be achieved for all five new dwellings.

#### Impact to Residential Amenities

- 6.25 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).
- 6.26 There are a number of neighbouring properties located to the east, south and west of the site. However, given there is a minimum 20 metres separation distance and that the dwellings are all single storey, there is not considered to be harm with respect to overlooking, loss of light or the development appearing imposing.

#### Highway Safety

- 6.27 Essex County Council as the Highway Authority has been consulted on the application and has stated that they have no objections subject to conditions relating to visibility splays, vehicular turning facilities, the use of no unbound materials and the width of the private drive.
- 6.28 Furthermore, the Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. The submitted layout supplied shows that these are comfortably adhered to.

#### Tree and Landscape Impacts

- 6.29 The main body of the application site is set to grass and does not contain any trees or other significant vegetation. Within the grounds of the property immediately to the north of the application site there are several trees situated close to the boundary fence adjacent to the access road. These trees will not be affected by the development proposal.

- 6.30 The northern boundary of the main body of the application site is demarcated by an established conifer hedge, most of which has been trimmed although one or two appear to have been left untrimmed. This landscape feature is of little merit.
- 6.31 The southern boundary of the land is planted with an established Hawthorn hedge which forms a pleasant boundary feature. However it has little amenity value and does not fall within the scope of legislation under which it could be afforded formal legal protection.

#### Legal Obligations

- 6.32 Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".
- 6.33 There is currently a deficit of 0.83 hectares of equipped play in Bradfield, however there is adequate formal open space to cope with some additional development. There is one play area located in the village of Bradfield, and is classified as a Local Equipped Area for Play. Some works were recently carried out to refurbish the current play area, however this has not reduced the current deficit. Therefore it is felt that a contribution is justified and relevant to this application, and that the money would be spent at the closest play area in Bradfield.
- 6.34 A unilateral undertaking has been completed to secure this legal obligation and to ensure compliance with saved policy COM6.

#### Habitats Regulation Assessment

- 6.35 Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation); within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.
- 6.36 Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be the RAMS level contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on the Stour and Orwell Estuaries Ramsar and SPA. The contribution is secured by unilateral undertaking. There is therefore certainty that the development would not adversely affect the integrity of the Stour and Orwell Estuaries Ramsar and SPA in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

#### Other Considerations

- 6.37 In order to meet the visibility splays requested by Essex Highways Authority the existing fencing arrangement for Number 2 The Paddocks would need to be altered. Therefore any recommendation for approval would be subject to this being agreed. The agent for the application has stated the fence in question is a contravention of a covenant imposed on the site, and is currently being handled by solicitors separately to this planning application.

- 6.38 Neighbour objections have noted that there is an existing telegraph pole to the front of the access point that would need to be removed for access to the site to be achievable. Any recommendation for approval would be subject to the operator of this telegraph pole agreeing to its relocation. The agent for the application has confirmed that the relocation of this telegraph pole has been agreed with the telecommunications company.

## **7. Conclusion**

- 7.1 In conclusion, while the site falls outside of a recognised Settlement Development Boundary the Council is unable to demonstrate a five year housing supply and must therefore assess the application on its own merits. The proposal would represent an economic and social form of sustainable development. While the scheme does represent a form of backland development, it is in accordance with the requirements of Adopted Local Plan Policy HG13 and Emerging Local Plan Policy LP8. The development will not result in harm to neighbouring amenities, while Essex Highways Authority have raised no objections. Therefore the application is recommended for approval.

## **8. Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

### **8.2 Conditions and Reasons**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans, the untitled Site Location Plan, and drawing numbers CCWR-01 Revision C, CCWR-02 Revision B, CCWR-03 Revision A, CCWR-04.

Reason - For the avoidance of doubt and in the interests of proper planning.

- 3 Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of obstruction above 900mm at all times. These visibility splays must not form part of the vehicular surface of the access.

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

- 4 Prior to occupation of the development a vehicular turning facility, as proposed in Block Plan, drawing no. CCWR -01 B 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.

- 5 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.

- 6 Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.3 metres for at least the first 6 metres from the back of the footway and provided with an appropriate dropped kerb crossing of the footway.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

- 7 No above ground works shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason - In the interests of visual amenity as insufficient information has been submitted within the application for full consideration of these details.

- 8 Prior to the commencement of any above ground works, a scheme of hard and soft landscaping works for the site shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction.

Reason - To enhance the visual impact of the proposed works.

- 9 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason -To enhance the visual impact of the proposed works.

### 8.3 Informatives

Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Legal Agreement Informative - Open Space/Play Space Contribution:

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Public Open Space financial contribution in accordance with Policy COM6 of the adopted Tendring District Local Plan (2007) and Policy HP5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

## Legal Agreement Informative - Recreational Impact Mitigation:

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

## Highways Informatives:

As the private access road is less than 5.5 metres in width consideration should be given to provide one suitable vehicle passing place within the curtilage of the site at a minimum dimension of 2 metres wide x 7.5 metres in length, adjacent to Plot 1. Details to be agreed in writing with the local Planning Authority, this is to ensure that medium to large vehicles can pass clear of the limits of the highway.

Prior to the first use of the vehicular access to the development arrangements will need to be made with the respective Statutory Undertakers to arrange for the re-location of the telegraph pole at the existing access so it provides the required width in and out of the development.

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.

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.

## **9. Additional Considerations**

### Public Sector Equality Duty (PSED)

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

- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

#### Human Rights

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

#### Finance Implications

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

### **10. Background Papers** None