

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	03/12/19
Planning Development Manager authorisation:	AN	9/12/19
Admin checks / despatch completed	CC	10/12/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	10/12/19

**Application:** 19/01101/DETAIL **Town / Parish:** Ardleigh Parish Council

**Applicant:** Dean Cave - C & K Developments Ltd

**Address:** Nobbys Place Bromley Road Ardleigh

**Development:** Reserved matters application for erection of four detached dwellings.

### 1. Town / Parish Council

Ardleigh Parish Council No comment.

### 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 occupation of any of the proposed development the internal road layout shall be provided in principal and based on drawing numbers:

- o 6545/1104 c Proposed site layout plan
- o It1685/dd/01 General arrangement and setting out 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.

2 Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6.

3. No unbound material shall be used in the surface treatment of the vehicular access or shared surface.

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

4. The development shall not be occupied until such time as a car parking and turning area has been provided in accord with site layout plan 6545/1104 c. These facilities shall always be retained in this form and shall not be used for any purpose other than the parking and

turning 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.

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

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

6. 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.

7. 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.

8. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

9. No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i the parking of vehicles of site operatives and visitors
- ii loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM 1.

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: The areas directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres

wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway.

In paved areas; whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

Informative 2: 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 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](mailto: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.

Natural England

Natural England has no comments to make on this application.

### 3. Planning History

00/00181/FUL	Erection of greenhouse, polytunnel and toolshed - retention of pond - alterations to existing access	Approved	21.06.2000
00/00538/FUL	Retention of small wildlife pond approx. 4.5m long x 2m wide x 0.5m deep	Approved	21.06.2000
95/00125/FUL	(Crockleford Hill, Bromley Road, Crockleford Heath) Improvements to existing access and retention of consolidation of earth and hardcore adjacent to entrance	Approved	13.06.1995

04/00178/TPO	Trim Holly and Hawthorn, cut back branches to 2 metres from road	Approved	06.03.2004
75/01412/FUL	Convert mission hall into domestic dwelling	Approved	05.02.1975
17/00056/OUT	Outline application for the erection of two detached dwellings and associated garaging and parking	Approved	08.03.2017
17/02190/OUT	Erection of four detached dwellings.	Refused	07.03.2018

#### 4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

EN1 Landscape Character

EN6 Biodiversity

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)

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

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 comprises of a 0.2ha parcel of open agricultural land situated on the northern side of Bromley Road within the smaller rural settlement of Crockleford Heath within the Parish of

Ardleigh closely related to Colchester to the west. The site is outside of the defined Settlement Development Boundary of Ardleigh as defined by both the Saved Tendring District Local Plan (2007) and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

### Description of Proposal

This application is a reserved matters application only and deals with all matters reserved from the previous outline permission 17/02190/OUT; namely appearance, landscaping, layout and scale.

The proposal seeks four detached dwellings of a modern design, each being served by four bedrooms.

### Site History

Under planning reference 17/00056/OUT, outline planning permission was granted for two dwellings on this site. At this point, the Council was not able to demonstrate a deliverable five year housing land supply

Under planning reference 17/02190/OUT, outline planning permission with all matters reserved bar access was refused. This was on the grounds that the Council was able to demonstrate a five year housing land supply and the site itself was located outside of a recognised settlement development boundary. The proposal represented harm to the existing character and appearance of the area, and also represented a premature isolated development not in line with the wider plans for the area via the Garden Communities project.

However, under appeal reference APP/P1560/W/18/3200898 (dated 15 October 2018) this application was allowed, with the Inspector stating "*The housing proposed would have good accessibility to a wide range of services and, relative to the extant permission for two dwellings, cause little harm to the character of the area. There would be an insufficient case to resist the proposal on the grounds of prematurity and, for the reasons given, I conclude that the appeal should be allowed.*"

### Assessment

#### 1. Layout, Design and Appearance

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

The submitted plans show the dwellings are each to be detached, two storeys and served by four bedrooms. The proposed layout shows a mini cul-de-sac arrangement with the majority of development to eastern element of the site, accessed via Bromley Road to the south. While the dwellings are all of the same design, they offer a contemporary approach that includes numerous details including balconies, chimneys and a good use of materials. This aids in helping to soften the bulk of the overall development. This modern design is relatively in-keeping with parts of the design of the nearby development recently constructed to the east.

Policy HG9 of the Saved Tendring Local Plan 2007 states that the private amenity space for a dwelling with three bedrooms or more should be a minimum of 100sqm. The plans demonstrate that this level of private amenity space can comfortably be accommodated for all four dwellings.

#### 2. Residential Amenity

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).

In terms of the impacts to neighbouring amenities, the nearest existing neighbouring properties are located approximately 60m to the east and 30m to the west. Such significant separation distances ensure there will be a neutral impact to their existing amenities.

With respect to the proposed layout, there is good separation distances between the proposed dwellings. While each is supplemented by a balcony area, it is noted they are each screened to protect privacy. Given this, and that future occupiers would be aware of the circumstances prior to purchase, there is not considered to be any significant overlooking issues that would warrant a reason for refusal.

### 3. Highway Safety

Essex County Council as the Highway Authority has been consulted on the application and has stated that they have no objections subject to a number of conditions relating to the internal road layout, details of the estate roads/footways, car parking and turning area, any new boundary planting being sited 1 metre back from the highway and the submission of a Construction Method Statement.

A condition was also requested for storage of bicycles; however given the site is of a sufficient size to accommodate bicycle storage, this condition is not considered reasonable or necessary on this occasion.

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 plans demonstrate there is sufficient space to accommodate these requirements.

### 4. Trees and Landscapes

The main body of the application site is set to grass and contains several trees of a mixed age range. Some of these have a positive impact on the character and appearance of the area.

The boundary with the adjacent highway is well treed and is affected by a tree preservation Order: TPO/98/05. The TPO affords formal legal protection the following trees: 11 Oak, 4 Hawthorn, 41 Elm, 3 Hazel, 9 Field Maple and 2 Holly. Since the making of the tree preservation order a note has been added to the TPO file to state that none of the 41 Elms remain. The proposed new access falls within the Root Protection Areas (RPA's) of two of the protected trees.

In order to show that the development proposal could be implemented without causing harm to the protected trees the applicant has provided a detailed Arboricultural Impact Assessment (AIA). The report is in accordance with BS5837 2012 Trees in relation to designs, demolition and construction. The report 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 in order to facilitate the development proposal and the way that retained trees will be physical protected during the construction phase of any development that may be granted planning permission.

The development proposal does not threaten the viability of the protected trees. Although the development proposal would necessitate the removal of some trees in the main body of the land this would not have a significant impact on the character or appearance of the area.

In terms of the proposed new vehicular access the information described in section 2.3.4 of the AIA has been provided and shows that the new access can be created without causing harm to protected trees.

## 5. Habitat Regulations Assessment

Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation); within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.

Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be the RAMS level contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on 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

Ardleigh Parish Council have not commented on the application.

There has been one letter of objection received, with the following concerns;

1. Impacts to local wildlife;
2. Dangerous access;
3. Loss of trees;
4. Harm to character of the area; and
5. Impacts to local infrastructure.

In answer to this, it is important to acknowledge that following planning appeal decision APP/P1560/W/18/3200898, the principle of four dwellings has already been allowed, with the access also agreed. Therefore points 1, 2 and 5 cannot be taken into consideration in the determination of this application. Points 3 and 4 have been addressed within the main body of the report above.

A letter of observation has also been received, highlighting that the site plan for both this application and that previously granted outline planning permission is not in accordance with the land registry title, and that the applicant does not own the land. However while the comments are noted, this is not a material planning consideration and would be a civil matter.

## 6. Recommendation

Approval.

## 7. Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans, drawing numbers 6545/1101 Revision A, 6545/1102 Revision A, 6545/1103 Revision A, 6545/1104 Revision C, 6545/1106 Revision B, 6545/1201 Revision A, 6545/1301 Revision A, 6545/1302 Revision A, 6545/1303 Revision A, 6545/1601 Revision A, 6545/1602 Revision A, IT 1685/DD/01, and document titled Arboricultural Impact Assessment received 22 August 2019.

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



- 2 Prior to the occupation of any of the hereby approved dwellings the internal road layout shall be provided in principal as shown on drawing numbers 6545/1104 C and IT1685/DD/01.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.

- 3 Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

- 4 The development shall not be occupied until such time as a car parking and turning area has been provided in accord with site layout plan 6545/1104 C. These facilities shall be retained in this form and shall not be used for any purpose other than the parking and turning 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.

- 5 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.

- 6 No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i the parking of vehicles of site operatives and visitors
  - ii loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. wheel and underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety.

- 7 No unbound material shall be used in the surface treatment of the vehicular access or shared surface.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety.

## 8. Informatives

Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

#### Highways Informatives:

The areas directly adjacent to the carriageway(s) in which the trees are to be planted should not be less than 3 metres wide, exclusive of the footway and the trunks of the trees should be no nearer than 2 metres to the channel line of the road. The same dimensions should be used in situations where the footway is located adjacent to the carriageway.

In paved areas; whether or not the planted areas are to be adopted highway, trees should be sited no closer than 2 metres to the defined (or undefined) edge of the carriageway. Where the adopted highway is to be an independent path, trees should be planted no closer than 1 metre from the edge of the highway. In all cases, trees should be provided with root barriers to prevent damage to underground services.

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.

#### 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.