

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	17/12/19
Planning Development Manager authorisation:	AN	17/12/19
Admin checks / despatch completed	CC	18/12/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	SLQ	18/12/19

**Application:** 19/00968/OUT **Town / Parish:** Ardleigh Parish Council

**Applicant:** Mr & Mrs N Orrin

**Address:** Cherrytree Farm Harwich Road Ardleigh

**Development:** Outline application for the erection of four detached dwellings with associated garaging, parking and a private drive.

### **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 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.

2 Prior to the occupation of the proposed development, a vehicular turning facility for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site which shall be retained and maintained free from obstruction thereafter.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

3 All carriageways should be provided at 5.5m between kerbed footways or 6.0m where vehicular access is taken but without kerbing.

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 of the Highway Authority's Development Management Policies February 2011.

4 The development shall not be occupied until such time as a car parking and turning area has been provided for each dwelling in accord with current Parking Standards. These facilities shall be

retained in this form at all times 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 of the Highway Authority's Development Management Policies February 2011.

5 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 this 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.

Design Informative:

1. There should be no vehicular access over any radius kerbs/bends.
2. The new carriageways should be provided with a centreline bend radius of 13.6m together with adequate forward visibility.

Informative1: Should this proposal come forward as a FULL application the Highway Authority is likely to request the following:

- Prior to the first occupation of any of the proposed dwellings the north bound bus stop adjacent to Coggeshall Road shall be improved by the provision of passenger waiting/hard standing across the verge from the shelter to the boarding kerbs, level entry kerbing, new post and flag, timetables, any adjustments in levels, surfacing and any accommodation works to the footway and carriageway channel being provided entirely at the applicant/Developer's expense to the specifications of the Highway Authority.

Reason: To make adequate provision for the additional bus passenger traffic generated as a result of the proposed development in accord with Policy DM 9 of the Highway Authority's Development Management Policies February 2011.

Informative2: 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**

03/01300/FUL	Change of occupation of dwelling to normal residential development (non-compliance with occupancy restriction).	Refused	15.09.2003
76/00136/FUL	Siting of residential caravan for use by manager	Approved	22.03.1976
78/00241/FUL	siting of residential caravan for use by manager of nursery	Approved	18.04.1978

87/01555/FUL	Temp siting of residential caravan to oversee horticultural development of land	Approved	20.10.1987
87/01917/FUL	Erection of glasshouse	Approved	22.12.1987
88/01987/FUL	Agricultural workers dwelling	Approved	29.11.1988
89/01070/FUL	Dwelling ( details under TEN/1987/88 )	Approved	04.08.1989
89/01072/FUL	Caravan whilst house in course of construction	Approved	04.08.1989
07/01086/FUL	Additional vehicular access.	Approved	04.10.2007
09/00248/FUL	Single storey extension to form additional living accommodation and annexe (following demolition of existing building). Erection of detached double cart lodge.	Approved	13.05.2009
11/00505/FUL	Single storey extension to form additional living accommodation and annexe (following demolition of existing building). Erection of detached double cart lodge. (Extension of time of previously approved 09/00248/FUL).	Approved	01.08.2011
16/01962/DISCON	Discharge of condition 6 (vehicular turning facility) and 7 (vehicular access closure) of planning permission 07/01086/FUL.	Approved	09.01.2017
16/02014/OUT	Proposed erection of four detached dwellings and associated garaging.	Approved	22.02.2017
17/01152/OUT	Outline application for the erection of five detached dwellings and associated garaging (amendment to 16/02014/OUT).	Refused (Allowed at appeal)	30.08.2017

#### **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

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG4 Affordable Housing in New Developments

HG9 Private Amenity Space

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

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, which measures 0.49 hectares, is Cherrytree Farm, which is located on the southern side of Harwich Road within the parish of Ardleigh. It is to the north-east of the settlement of Ardleigh and the site itself comprises of an area of scrub grassland and a large disused glasshouse which covers approximately 50% of the application site.

The character of the surrounding area is semi-rural; while the wider area is characterised by large areas of grassed and agricultural land, the immediate surrounding area sees sporadic residential development to both the north and west. Adjacent to the north-east, planning permission has recently been granted for five dwellings.

The site is not situated within a recognised Settlement Development within both the Saved Tendring Local Plan 2007 and the Emerging 2013-2033 Tendring Local Plan Publication Draft.

### Site History

While the site itself has not been subject of previous planning applications, the land immediately adjacent to the north-east has. Under planning reference 16/02014/OUT planning permission was

granted for four residential dwellings at a time when the Council was unable to demonstrate a five year housing supply.

Under planning reference 17/01152/OUT, a scheme for five dwellings on this site was refused planning permission, with the reason for refusal focussing on the development intensifying the site with a dwelling outside of a recognised settlement boundary. The Council was at that time able to demonstrate a five year housing supply so considered it was able to direct new housing to areas within allocated settlement boundaries.

However, under appeal reference APP/P1560/W/3196926, this development was allowed, with the Inspector confirming that *"One additional dwelling may well result in an intensification of built form, but in such a context it would not cause any harm to the character and appearance of the area, including above and beyond the approved scheme."*

### Description of Proposal

The application seeks outline planning permission for the erection of four detached residential dwellings. All matters bar access are to be reserved for any future detailed application, namely appearance, landscaping, layout and scale.

### 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:

Officers consider that the proposal would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants utilising local services, and so meets the economic arm of sustainable development.

#### Social:

In the Council's "Local Plan Settlement Hierarchy" document (April 2016) Ardleigh is identified as a smaller rural settlement with no defined village centre, employment area or train station. Ardleigh is therefore classed as one of the District's lowest scoring settlements in terms of its sustainability credentials. That notwithstanding, under planning appeal reference APP/P1560/W/3196926 (Cherrytree Farm, Harwich Road, Ardleigh - dated 18 October 2018) at the site adjacent, the Inspector stated "*Whilst I have no doubt that some future occupants of the properties would have reliance on private motor vehicles, the level of trips would not be great and journeys would be short. Although there is not a regular bus service, it is within walking distance and residents would have access to alternative public transport. There are also opportunities for walking and cycling.*" In stating this, the Inspector has confirmed that the site is within a socially sustainable location and therefore meets this strand of sustainability.

#### Environmental:

The environmental role is about contributing to, protecting and enhancing the natural built and historic environment.

The area is semi-rural in appearance, and is characterised by large agricultural buildings and dwellings set on large plots. The site directly adjacent to the north-east has planning permission for five dwellings, while the application site itself currently consists of a large disused glasshouse. As such the development of the site with four detached properties would not appear out of keeping with the prevailing pattern of built form in the vicinity. The presence of large buildings in the vicinity means that the site is located within a cluster of buildings and would not therefore appear as an intrusive development into open countryside.

It is considered that the local landscape character, which is one of a low density rural settlement pattern with hamlets and scattered farmsteads would not be harmed by the proposal, due to the well contained nature of the site by existing vegetation and the fact the development will be set against a backdrop of commercial and residential development, and any impact on the landscape character would be minimal.

Therefore taking into consideration the character of the surrounding area and the vegetation present on and around the site, it is considered that the proposed development would have a neutral impact upon the environment and would as a result satisfy the environmental strand of sustainability.

## 2. 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 application is in outline form, with only access being determined. As such no elevational drawings have been provided, although an indicative layout has. The development will include a total of four detached dwellings in a mini cul-de-sac which is largely in-keeping with the development recently approved adjacent to the north-east. There would therefore be no objection to a similar layout within any future detailed application. The development would be accessed via Harwich Road to the north of the site, and will link to the recently approved scheme adjacent which also utilises this access point, so is considered acceptable.

Residential development is relatively sporadic in the surrounding area and as such there is no set development scale that would necessarily need to be adhered to. In terms of any future design, it would be expected that it is in-keeping with the semi-rural appearance of the area.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of one bedroom there should be minimum provision of 50sqm private amenity space, for a dwelling of two bedrooms a minimum of 75sqm, and for a dwelling of three bedrooms or more should be a minimum of 100 square metres. The submitted plans do not indicate the number of bedrooms but it is considered there is sufficient space within the site to accommodate the above standards.

### 3. Impact upon neighbours

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).

Whilst the application is in outline form with all matters, bar access, reserved, Officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties or the future occupiers of the proposed dwellings.

### 4. Highways

Essex County Council Highways have been consulted as part of the process of this application and have stated that they have no objections subject to conditions relating to the use of no unbound materials, vehicular parking and turning facilities and carriageways being provided between kerbed footways.

A condition for details of the storage of bicycles was also requested; however given there is significant room within all plots curtilage it would not be reasonable to attach this as a condition 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. Whilst only an indicative layout has been provided it is considered that within any future detailed application these standards can comfortably be achieved.

### 5. Tree Impacts

The land intended for the construction of houses is currently occupied by a large glasshouse previously used for the commercial production of crops but currently only being used for storage. The south easternmost part of the site is unmown grass.

To the west and southeast of the proposed access road there are areas of fruiting Cherry trees. The proposed access road runs immediately to the east of one of the northernmost group and bisects the two groups at a mid-point to access the proposed new dwellings.

The trees are not threatened by the development proposal.



Further, it is noted that neither group of Cherries meet the criteria under which they would merit retention or protection by means of a tree preservation order, and that the planning permission granted adjacent necessitates the removal of the northernmost group of Cherries.

Details of soft landscaping, to soften and enhance the appearance of the development, can either be demonstrated within a future detailed application or be secured by a future planning condition.

## 6. Affordable Housing

Paragraph 63 of the NPPF (2019) states provision of affordable housing should be sought for residential developments that are major developments. Within the glossary of the NPPF (2019), major development is defined as development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.

The application subject of this application is for a total of four dwellings on a site measuring approximately 0.49 hectares. As such, if the site was to be considered on an individual basis, it would not be classed as a major development as per the NPPF (2019) description.

However under previous planning permission 17/01152/OUT, land to the immediate north has been developed for two dwellings on a site measuring approximately 0.39 hectares. The applicant for 17/01152/OUT was the same as the current application, while the site location plans for both applications show that both sites are within the same ownership of the applicant. Further, both applications have taken place across the past two years, which is not considered to be a significant amount of time. It is therefore considered that there is a clear and direct link between the two sites, and the two proposals represent a sub-division of a larger site for nine dwellings. The above policies are therefore applicable and if minded to approve this application, up to three of the proposed properties would need to be secured for affordable housing purposes through a Section 106 legal agreement.

A completed Section 106 obligation to secure the affordable housing contribution has not been provided prior to the application determination date and the application is therefore contrary to the above policies.

## 7. Legal Obligations

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".

There is currently a deficit of -1.70 hectares of equipped play in Ardeigh, with two play areas being sited approximately one mile away. Due to the overall deficit of play in Ardeigh a contribution is both justified and relevant to this application, with any contribution to be used towards improving facilities at Recreation Ground and Millennium Green, Station Road, Ardeigh.

A completed unilateral undertaking has been provided to secure this legal obligation and to ensure compliance with saved policy COM6.

## 8. Habitats Regulation 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 European Designated Sites. The contribution is secured by unilateral undertaking. There is therefore certainty that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

### Other Considerations

Ardleigh Parish Council has objected to the application for the following reasons:

1. Loss of valuable countryside;
2. Site is outside of a settlement boundary;
3. Highway safety issues; and
4. The site is not sustainable.

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

There have been no other letters of representation received.

## **6. Recommendation**

Approval.

## **7. Reason for Refusal**

- 1 Paragraph 63 of the NPPF (2019) states provision of affordable housing should be sought for residential developments that are major developments. Within the glossary of the NPPF (2019), major development is defined as development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.

It is considered that this application, and that previously approved under planning reference 17/01152/OUT constitutes a sub-division of a single site and therefore result in a total of nine units on a site in excess of 0.5 hectares. The above policy is therefore applicable and therefore there is a need to provide for affordable housing through a s106 legal agreement.

A completed Section 106 obligation to secure the affordable housing contribution has not been provided prior to the application determination date and the application is therefore contrary to the above policies.

## **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. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.