

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	20/12/19
Planning Development Manager authorisation:	AN	07/01/20
Admin checks / despatch completed	CC	09/01/20
Technician Final Checks/ Scanned / LC Notified / UU Emails:	SB	09/01/2020

Application: 19/01361/OUT **Town / Parish:** Ardleigh Parish Council

Applicant: Mr Andrew Smith

Address: 31 Harwich Road Lawford Manningtree

Development: Outline application for 4no. houses including landscaping and site clearance.

1. Town / Parish Council

Ardleigh Parish Council

Ardleigh Parish Council objects to the application primarily because of concerns about safety of access to the site given its proximity to a sharp bend and railway bridge on the A137. This is emphasised in Highways comments '... would result in an unacceptable degree of hazard to all road users to the detriment of highway safety.'

2. Consultation Responses

ECC Highways Dept
(Initial comments)

The information that was submitted in association with the application has been fully considered by the Highway Authority.

The proposal is situated within the existing 40-mph speed limit for this section of Harwich Road; within the site there appears to be adequate room and provision for off street parking and turning, for the proposed dwellings however:

The Highway Authority raises an objection to the above application because:

The developer has not demonstrated that the proposal would be acceptable in terms of highway safety and efficiency.

As far as can be determined from the submitted plans the applicant does not appear to control sufficient land to provide the required vehicular visibility splays of 2.4 metres x 120 metres from the west. The lack of such visibility would result in an unacceptable degree of hazard to all road users to the detriment of highway safety.

The proposal would intensify the use of an existing access which has deficiencies in visibility and construction which is not in accordance with current safety standards. The main function of this highway is that of carrying traffic freely and safely between centres of population. The existence of an access in this location is a matter of fact and therefore some degree of conflict and interference to the passage of through vehicles already occurs but the intensification of that conflict and interference which this proposal would engender would lead to a deterioration in the efficiency of the through road as a traffic carrier to

the detriment of highway safety.

The proposal is therefore contrary to policy DM1 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Notes:

Due to the profile of the road and the close proximity of the railway bridge and associated safety barrier, the visibility splay to the west is potentially below the required standard. The 40-mph speed limit dictates that the required visibility splay should be 2.4 metres x 120 metres in both directions.

1. The applicant should be invited to provide such additional information as listed below upon receipt of which would enable further consideration to be given to the application.
2. The applicant will need to provide evidence by way of a speed survey that a relaxation in these requirements will not create a highway safety issue.
3. Additional information is required to show the visibility splays that can be achieved from the access.

The Highway Authority may consider a revised proposal once this information has been submitted.

ECC Highways Dept
(Amended comments
following discussions with
the agent for the
application)

The information that was submitted in association with the application has been fully considered by the Highway Authority. The proposal is situated within the existing 40-mph speed limit for this section of Harwich Road; within the site there appears to be adequate room and provision for off street parking and turning, for the proposed dwellings therefore:

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

1. Prior to occupation of the development, the new road junction / access (with Clacton Road) at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 120 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

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

NOTE: If the visibility splays are unachievable due to site or land control constraints the applicant will need to provide evidence by way of a speed survey that a relaxation in these requirements will not create a highway safety issue.

2. Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority 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 materials shall be used in the surface treatment of the proposed Private 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 DM1.

4. Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary and provided with an appropriate dropped kerb crossing of the footway/verge.

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. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1

6. 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.

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

98/01495/FUL	(31 Harwich Road, Ardleigh) To use existing double garage as an antique restoration workshop	Approved	05.01.1999
84/01430/FUL	Self - contained annexe and employees W.C. and kitchen employees	Approved	15.01.1985
87/01261/FUL	Amendment to rear extn	Approved	01.09.1987
93/00016/AGRIC	Barn and Stables	Withdrawn	23.02.1994

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

HG7 Residential Densities

HG9 Private Amenity Space

HG13 Backland Residential Development

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)

- 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
- SPL1 Managing Growth
- SPL3 Sustainable Design
- Local Planning Guidance
- Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

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

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

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

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not

possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

5. Officer Appraisal

Site Description

The application site is land adjacent to the south of 31 and 33 Harwich Road, which falls within the parish of Ardleigh. The character of the surrounding area is quite mixed; the site is located on a busy road with some built form to the north-west and east, however further out are large areas of agricultural and grassed land. The site is outside of a recognised Settlement Development Boundary within both the Saved Tendring District Local Plan (2007) and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Description of Proposal

The application seeks outline planning permission for the erection of four dwellings. All matters, namely access, appearance, landscaping, layout and scale, are reserved for a future detailed planning application.

Assessment

1. Principle of Development

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

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

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

At the time of this report, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the

various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination in Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

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

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

Economic:

It is considered that the proposal for four 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:

In respect of the social dimension, within previous appeal reference APP/P1560/W/18/3218683 (43 Harwich Road, Lawford, dated 5 July 2019) which is sited approximately 100 metres to the east of this application site, the Inspector, in assessing the sites credentials as a location for new housing development, stated the following:

"The appeal site is roughly midway between the settlements of Ardleigh and Lawford, being around a mile or so to each and outside of their development boundaries. The EP says that Lawford is a 'Smaller Urban Settlement', partly due to relatively large range of local services.

There are bus stops within 0.29 miles of the appeal site with services to Ardleigh and Lawford. This distance is not particularly far and accessible by footways along Harwich Road (A137) which is the principal road linking Ardleigh, Manningtree, Mistley and Lawford with Colchester. It is served by three bus routes with a frequent service in each direction each day, from early in the morning to late at night. Therefore, a bus journey to Lawford to utilise the large range of services there would be relatively straight-forward. I consider that sustainable travel other than by private car would be reasonably practicable in this case."

The site has therefore previously been established as a socially sustainable location and therefore meets this criterion.

Environmental:

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:

The development involves the construction of four dwellings in a 'backland' location to the rear of the established residential frontage along Harwich 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;

The site lies outside the defined settlement development boundary. The land is not allocated within the Saved or Emerging Local Plan.

(ii) where a proposal includes existing private garden land which would not result in less than 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;

While the application is in outline form with all matters reserved, an indicative layout has been provided. Within this it shows that the private amenity areas for all plots will meet the requirements of Policy HG9, while 31 and 33 Harwich Road will also retain well in excess of the standard requirements. 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) 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;

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. Although the scheme does involve a long, narrow driveway, this already exists.

(iv) the proposal does not involve "tandem" development using a shared access;

Tandem development is when a house is immediately situated behind another and shares the same access. The proposal does not involve tandem development and therefore this criterion is met.

(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;

The site isn't a uniform shape but a more comprehensive development solution is not considered appropriate in this location with such a strong linear character.

(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

The application site is not on the edge of a defined settlement and therefore would not produce a hard urban edge. However, due to the backland location, it is considered that the proposed development is out of character in the locality as the surrounding residential development has a strong linear character of semi-detached dwellings fronting the highway along Harwich Road. The proposed development fails to make a positive contribution to the quality of the environment and fails to protect or enhance local character.

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

The proposed development would represent an unacceptable form of backland development being wholly out of character with the area setting a harmful precedent for other similar development to the rear of other properties within the street which would be materially harmful to the character of the surrounding area.

The proposed development therefore fails the environmental strand of sustainability.

2. Impact upon Neighbouring Amenities

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

Whilst the application is in outline form with all matters 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.

3. Highway Safety

Essex County Council as the Highway Authority has been consulted on the application. Initially they raised a holding objection as it was not considered possible to provide the required visibility splays. However the access is a matter to be determined at any future reserved matters stage, and the agent for the application has confirmed they are aware a speed survey would be required. Following this, Essex Highways Authority has stated that they have no objections subject to conditions relating to visibility splays, vehicular turning facilities, the use of no unbound materials, the width of the private drive, no discharge of surface water, any boundary planting should be planted a minimum of 1 metre from the highway, and the submission of a Construction Method Statement. Had the application been recommended for approval, these conditions would have been attached to the decision.

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 indicative layout supplied shows there is sufficient space to accommodate this within any future detailed application.

4. Tree Impacts

The boundary with the adjacent highway is demarcated by established hedging comprising of Laurel to the west of the existing access and conifers (*Cuprocyparis Leylandii*) to the east. The conifers extend along the existing access road to the east of 32 Harwich Road and providing access to the development site. The conifers are a dominant feature in their setting however they do not make a positive contribution to the character or appearance of the area and do not fall within the scope of legislation under which they may be afforded formal legal protection.

To the west of the existing access and in the front garden of 31 Harwich Road there are two young, but established trees: a Pine and a Spruce. Neither of these trees would be adversely affected by the development proposal.

On the eastern boundary of the application site and set back some distance from the highway there is an established Weeping Willow. The tree is relatively young although of considerable size. Nevertheless its position is such that it does not make a positive contribution to the character and appearance of the area, and consequently does not merit formal protection by means of a tree preservation order.

5. Legal Obligations

There is currently a deficit of -3.44 hectares of equipped play/open space in Lawford. Due to the geographical layout of the area, the play sites are spread widely across the village. The nearest play area to the site is located approximately 1.4 miles away in School Lane.

A contribution towards improving this play area is both relevant and justified to the application, to help reduce the current deficit. Any contribution would be used for improvements at School Lane, Lawford.

No such contribution has been included within this application nor has any justification for the lack of a contribution and therefore this scheme does not comply with Policy COM6.

6. Habitats Regulation Assessment

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

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

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

Other Considerations

Ardleigh Parish Council object to the application for the following reasons:

1. Safety of access; and
2. Highway safety

In answer to this, Essex Highways Authority have not objected to the application, and access would be a reserved matter to be assessed within any future detailed planning application.

There has also been one letter of support received, however a request has been for a buffer zone to reduce overlooking and loss of light.

6. Recommendation

Refusal - Outline

7. Reasons for Refusal

- 1 The site lies outside of any Settlement Development Boundary as defined within both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.

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

development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

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

Whilst it is recognised that there would be conflict with Saved Policy QL1 (as recognised by the Inspector) 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. Development should be plan led unless material considerations indicate otherwise. However, in line with Paragraph 8 of the National Planning Policy Framework (2019), achieving sustainable development means meeting an economic objective, a social objective and an environmental objective.

Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.

Furthermore "Saved" Tendring District Local Plan (2007) Policy HG13 (vi and vii) and "Emerging" Tendring District Local Plan 2013-2033 and Beyond Publication Draft Policy LP8(e and f) on "Backland Residential Development" requires that proposals for residential backland development would not be out of character with the area or set a harmful precedent for other similar forms of development.

The proposed backland development is out of character in the locality as the surrounding residential development has a strong linear character of semi-detached dwellings fronting the highway along Harwich Road. The proposed development fails to make a positive contribution to the quality of the environment and fails to protect or enhance local character. Further, it would set a harmful precedent for other similar development to the rear of other properties within the street which would be materially harmful to the character of the surrounding area.

The proposed development therefore fails the environmental strand of sustainability.

- 2 There is currently a deficit of -3.44 hectares of equipped play/open space in Lawford. Due to the geographical layout of the area, the play sites are spread widely across the village. The nearest play area to the site is located approximately 1.4 miles away in School Lane.

A contribution towards improving this play area is both relevant and justified to the application, to help reduce the current deficit. Any contribution would be used for improvements at School Lane, Lawford.

No such contribution has been included within this application nor has any justification for the lack of a contribution and therefore this scheme does not comply with Policy COM6.

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

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

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

8. Informatives

Positive and Proactive Statement

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