

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	03/02/2020
Planning Development Manager authorisation:	AN	3/2/20
Admin checks / despatch completed	PW	3/2/20
Technician Final Checks/ Scanned / LC Notified / UU Emails:	AP	3/2/2020

Application: 19/01537/FUL **Town / Parish:** Weeley Parish Council

Applicant: Mr Wenden

Address: Land to The rear of 70 The Street Weeley Clacton On Sea

Development: Proposed detached house.

1. Town / Parish Council

Weeley Parish Council

Objects to this application for the following reasons: this proposed dwelling constitutes backland development and is within the grounds of an important listed building. The proposed access is on to the Weeley by-pass on to a stretch of road signed as a clearway. The national speed limit is in force at this location and there can be no safe way for traffic to enter and exit the site. If this application were to be approved it could potentially set a precedent for backland development along the length of the Weeley by-pass.

2. Consultation Responses

ECC Highways Dept

This Authority initially requested an amendment to the proposal whereby consideration should be made to take the access through the existing route from The Street. However, further information has been provided regarding the site history and a review of this information has been undertaken:

A similar application was made for this site in 2017 (17/01567/FUL) which involved two new dwellings. The application did not attract an objection from the Highway Authority. The application was subsequently refused and dismissed on appeal, but only on the grounds of the design and layout of the development. No mention was made by the District Council in respect of highway matters, nor did the Inspector raise any concerns towards the access within her decision. The latest proposal is for only one new dwelling; the application now submitted shows no change to the proposed access.

The site can provide;

- 1) Turning facilities and parking spaces,
- 2) Visibility splays
- 3) Appropriate surfacing
- 4) Forward visibility for traffic already in the highway

The recent collision data shows there have been no reported

accidents on Weeley Bypass in the vicinity of the proposed site access for at least three years. In this regard an 'overriding safety concern' cannot be proven.

Considering this information in relation to the highway and transportation impact of the proposal and site history this Authority removes the previous objection subject to the following:

1. Prior to occupation of the new dwelling 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.

2. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

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

3. Prior to occupation of the new dwelling, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres within the site, tapering one-sided over the next 6 metres to any lesser width and provided with an appropriate dropped kerb crossing of the highway verge to the satisfaction of the Local Planning Authority.

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.

4. Prior to occupation of the new dwelling, the existing centre hatching opposite the proposed vehicular access on the Weeley Bypass shall be amended, removing the hatching and one side of the centre line for the length of the drop kerb for the new vehicular access to the satisfaction of the Local Planning Authority.

Reason: To indicate and highlight where the new private vehicular access is being located on the Weeley Bypass, in the interests of highway safety in accordance with policy DM1.

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. 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.

8. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway/carriageway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative 1: Steps should be taken to ensure that the Developer provides enough turning and off-loading facilities for delivery vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

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: Any work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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 or by post to:

SMO1 ' Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester.
CO4 9YQ.

Essex County Council
Heritage

The application is for a proposed detached house.

The site is located within the rear garden of Grade II listed Weeley House (List Entry ID:1235273). The building is an eighteenth century house of high status and the most historically prominent building in this area of The Street.

The proposal site is located within the rear garden and the setting of the designated heritage asset. The information, pertaining to the heritage asset, within the application is limited and not considered compliant with paragraph 189 of the NPPF which states:

In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

An assessment of an application, in this type of location, would include a Heritage Statement and typically consult the methodology outlined in Historic England guidance The Setting of Heritage Assets.

Based on the information provided, I do not support this proposed development in principle. I have also reviewed historic maps of the site which show the historic configuration of a large rear plot which extended beyond the existing bypass which has since truncated and consolidated the property. The existing rear garden is of an appropriate size as one would expect to see and experience with a house of this status. The depth of the garden also provides some relief from the bypass which detracts from the building's setting. The proposed development would result in a consolidated and further truncated rear garden plot which will detract from the setting of the listed building and how this contributes to its significance. The proposed development will cause less than substantial harm to a designated heritage asset and as such paragraph 196 of the NPPF is relevant.

3. Planning History

94/00688/OUT	(Gardens of Weeley House, The Street, Weeley) Five one-bedroom Retirement Homes	Refused	03.08.1994
94/01254/OUT	(Garden of Weeley House, The Street, Weeley) 5 one bedroom retirement homes	Refused	24.01.1995
16/00021/LUEX	Change of use of shop to residential.	Lawful Use Certificate Granted	01.03.2016
17/01567/OUT	Proposed detached dwellings & double garage on land to the rear of Weeley House.	Refused And Dismissed at Appeal	01.12.2017
19/00802/LBC	Proposed replacement of upper 3 sash windows on East Side facia.	Approved	09.08.2019

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN23 Development within the Proximity of a Listed Building

- HG1 Housing Provision
- HG3 Residential Development Within Defined Settlements
- 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
- LP4 Housing Layout
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL9 Listed Buildings
- HP5 Open Space, Sports & Recreation Facilities
- 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 (including Site Description and Proposal)

Site Description

The application site is located on the eastern side of the Weeley Bypass (B1441) to the western end of the rear garden serving Weeley House, which is a Grade II Listed building that fronts onto The Street. Weeley House is a Georgian former farmhouse constructed from red brickwork and clay tiled hipped roof. The rear garden serving Weeley House is bordered to the west by Weeley Bypass. The application site is located outside the settlement boundary of Weeley.

Proposal

This application seeks planning permission for the erection of a detached house and double garage with an access onto Weeley Bypass.

Site History

Under planning reference 17/01567/OUT, planning permission was refused on this site for two dwellings with access onto the Weeley Bypass. The Council refused the application as there would be direct access from Weeley Bypass as well as the eastern side of the bypass being characterised by various forms of fencing and vegetation that encloses the rear gardens of properties located within Hilltop Rise, Hilltop Crescent and sections of The Street. It was determined that two dwellings in this location would appear incongruous within the street scene and out of keeping with the prevailing pattern of built form in the village as well as setting an undesirable precedent.

The application was dismissed at appeal under appeal reference APP/P1560/W/17/3192362. The appeal was dismissed as the Inspector concluded that the proposal would harm the character and appearance of the area.

Assessment

1. Principle of Development

The application site is located outside the settlement development boundary of Weeley in the saved Tendring District Local Plan (2007) but within in the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). Policy HG3 of the Adopted Tendring Local Plan 2007 and Policy SPL2 of the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft states that there is a general presumption in favour of new development within defined development boundaries of towns and villages, subject to detailed consideration against other relevant Local Plan policies. The inclusion of the site within the SDB of the emerging plan represents a significant material planning consideration. Consequently the principle of residential development on the site is considered acceptable and sustainable.

2. Design, Layout and Appearance

The National Planning Policy Framework ("the Framework") attaches great importance to the design of the built environment and confirms good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings. Paragraph 130 of the Framework states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

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 plans submitted show a 3 bedroom dwelling, which will be a detached one and a half storey dwelling of a traditional appearance and will be accessed via Weeley Bypass.

It is considered that the proposed dwelling would not create a cramped form of development as it would provide important gaps to both sides in excess of the minimum standards set out within Policy HG14.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of three bedrooms or more should be a minimum of 100sqm. The submitted plans demonstrate that the proposed dwelling can accommodate more than 100sqm and sufficient private amenity will be retained for Weeley House.

The development would take direct access from and front onto the B1441 (Weeley Bypass). Within paragraph 5 of the appeal decision, the planning inspectorate states that 'I understand that The Street is characterised by frontage development. There are cul de sacs and other roads from it which also contain frontage buildings. By contrast the appeal site would be formed from part of the rear garden of Weeley House. This would give it a frontage to the Weeley bypass (B1441). There are no other plots where dwellings that front onto the bypass. The character of the area is rear garden fences and footpath and verge associated with the road'. 'I appreciate that the rear of the houses are glimpsed but there is not a strong road frontage of dwellings'. The Inspectorate concluded that the proposal 'would not have any physical or visual affinity with the existing character and would appear out of place. This is not something that landscaping would change'. It is therefore concluded that the proposal would harm the character and appearance of the area.

3. Impact upon Residential Amenities

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

As the proposed dwelling is located within the rear garden of 'Weeley House', there will be views from the neighbouring dwellings, however due to the sufficient distance as well as the proposed landscaping, it is considered that the one and half storey dwelling will not cause any material harm to the impact upon neighbouring amenities in terms of loss of light, outlook or privacy.

The proposal retains 50 metres separation to Weeley House, which is above the recommended 25 metres back to back distance as detailed in the Essex Design Guide and therefore it is considered that the proposal will not cause any material loss of privacy between Weeley House and the proposed dwelling.

4. Impact to Setting of a Listed Building

Paragraph 196 of the National Planning Policy Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Policy EN23 of the Adopted Plan states that development within the proximity of a Listed Building that would adversely affect the setting of a Listed Building, including group value and long distance views, will not be permitted. The sentiments of this policy are carried forward within policy PPL9 of the Emerging Plan.

The application site is to the rear of a Grade II Listed Building, Weeley House. The Historic Environment Manager has been consulted on this application and raises an objection to the proposal. However, the comments have been noted but cannot be taken into consideration when determining this application as the Planning Inspectorate in paragraph 8 of the appeal decision states that; further I note that the Council did not raise any concerns regarding the matter of impact to trees or the effect on the setting of the Grade II Listed Weeley House. I have no reason to disagree with these conclusions'. Therefore it is considered that the proposed dwelling would not cause any significant impact upon the setting of the Listed Building.

5. Highway Impacts

Essex Highways Authority have been consulted on this application and have stated that the Authority initially requested an amendment to the proposal whereby consideration should be made to take the access through the existing route from The Street. However, further information has been provided regarding the site history and a review of this information has been undertaken. A similar application was made for this site in 2017 (17/01567/FUL) which involved two new dwellings. The application did not attract an objection from the Highway Authority. The application was subsequently refused and dismissed on appeal, but only on the grounds of the design and layout of the development. No mention was made by the District Council in respect of highway matters, nor did the Inspector raise any concerns towards the access within her decision. The latest proposal is for only one new dwelling; the application now submitted shows no change to the proposed access.

The site can provide;

- 1) Turning facilities and parking spaces,
- 2) Visibility splays
- 3) Appropriate surfacing
- 4) Forward visibility for traffic already in the highway

The recent collision data shows there have been no reported accidents on Weeley Bypass in the vicinity of the proposed site access for at least three years. In this regard an 'overriding safety concern' cannot be proven. Therefore the Highway Authority have no objection to the proposal subject to conditions relating to visibility splays, no unbound materials, private drive, existing centre hatching opposite the vehicular access shall be amended, parking space measurements, garage measurements, cycle parking and storage of building materials. The parking space measurements and garage measurements will not be imposed as conditions as the site plan demonstrates that sufficient parking can be achieved in line with Essex Parking Standards. The proposed double garage measures 7 metres by 7.5 metres with an overall height of 5.3. The proposed garage is therefore above the Essex Parking Standard requirement of 7 metres by 3 metres and the condition relating to garage measurements will not be required. The storage of building materials will be imposed as an informative. It is therefore considered that the site is acceptable in terms of highway safety subject to conditions.

6. Trees and Landscaping

The application site contains a small fruit tree close to the boundary with Weeley By-pass. To the east of the application site and within the garden of Weeley House there is an established Weeping Willow. The Weeping Willow is a reasonable specimen and makes a moderate contribution to the amenity of the locality however its value is not so great that it merits protection by means of a tree preservation order. It is possible that this tree will not be affected by the development proposal. The single fruit tree does not merit protection by means of a tree preservation order. No trees will be affected by the creation of the new vehicular access onto the By-pass as the previously problematic trees have been felled, by the highway authority, because of their condition. A condition will be imposed to ensure that the applicant provides details of the indicative soft landscaping shown on the Site Layout Plan to soften, screen and enhance the appearance of the proposed development.

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".

No contribution is being requested from Open Spaces on this occasion.

8. 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.

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.

The application scheme proposes a dwelling on a site that lies within the Zone of Influence (Zol) being approximately 4.7 km away from Hamford Water RAMSAR Site and SPA. Since the development is for one dwelling only, the number of additional recreational visitors would be limited and the likely effects on Hamford Water from the proposed development alone may not be significant. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Hamford Water and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured 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.

9. Other Representations

Weeley Parish Council objects to this application as the proposal is considered to be backland development, within the grounds of a listed building, concerns with the access onto the Weeley by pass and the proposal would set a precedent.

Although the application site is located within the garden of Weeley House, the application site is not considered backland development as the site can be accessed via Weeley Bypass. The other concerns in relation to the grounds of the listed building and the concerns with the access onto the Weeley bypass have been addressed within the report.

Two letters of representation have been received raising the following concerns;

1. harm to the rural setting of a historical important building
2. Concerns over the access onto the Weeley By Pass
3. Removal of poplar on site
4. out of keeping,
5. concerns the development will have on the Listed Building,
6. development will reduce habitat for wildlife

Concern number 1 -5 have been addressed within the report. In response to concern 6, the application site is utilising Weeley House's existing garden. No trees will be affected by the creation of the new vehicular access onto the Bypass as the previously problematic trees have been felled, by the highway authority, because of their conditions, therefore it is considered that the proposal will not impact upon wildlife habitats as the site currently comprises of maintained garden.

6. Recommendation

Refusal - Full

7. Conditions / Reasons for Refusal

- 1 The National Planning Policy Framework ("the Framework") 2019 attaches great importance to the design of the built environment and confirms good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings. Paragraph 130 of the Framework states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

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 development would take direct access from and front onto the B1441 (Weeley Bypass). Within paragraph 5 of the appeal decision reference APP/P1560/W/17/3192362, the

Planning Inspectorate states that 'I understand that The Street is characterised by frontage development. There are cul de sacs and other roads from it which also contain frontage buildings. By contrast the appeal site would be formed from part of the rear garden of Weeley House. This would give it a frontage to the Weeley bypass (B1441). There are no other plots where dwellings that front onto the bypass. The character of the area is rear garden fences and footpath and verge associated with the road'. 'I appreciate that the rear of the houses are glimpsed but there is not a strong road frontage of dwellings'. The Inspectorate concluded that the proposal 'would not have any physical or visual affinity with the existing character and would appear out of place. This is not something that landscaping would change'. It is therefore concluded that the proposal would harm the character and appearance of the area.

The proposal is therefore contrary to the aims of the afore-mentioned national and local policies.

- 2 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.

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.

The application scheme proposes a dwelling on a site that lies within the Zone of Influence (ZoI) being approximately 4.7 km away from Hamford Water RAMSAR Site and SPA. Since the development is for one dwelling only, the number of additional recreational visitors would be limited and the likely effects on Hamford Water from the proposed development alone may not be significant. However, new housing development within the ZoI would be likely to increase the number of recreational visitors to Hamford Water and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured 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.

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO