

PLANNING COMMITTEE

12 FEBRUARY 2020

REPORT OF THE HEAD OF PLANNING

A.6 PLANNING APPLICATION - 19/01667/FUL - 45 HARWICH ROAD LAWFORD MANNINGTREE CO11 2LS



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Application: 19/01667/FUL

Town / Parish: Lawford Parish Council

Applicant: Mr and Mrs D Spurgin

Address: Land to The West of 45 Harwich Road Lawford Manningtree CO11 2LS

Development: Erection of two dwellings.

1. Executive Summary

- 1.1 The application is before Planning Committee at the request of Councillor Carlo Guglielmi, Councillor Val Guglielmi and Councillor Alan Coley due to the site being located outside of the village boundary; due to recent planning and appeal history rejecting similar nearby developments and due to the harmful precedent that would be set by allowing development in this unsustainable location.
- 1.2 The application relates to the land to the west of number 45 Harwich Road, Lawford. The site extends approximately 0.12 hectares in size and comprises an open grassed area of land between numbers 45 and 44 on the southern side of Harwich Road. On the boundary with the highway there is an established coniferous hedge. To the rear of the site are a range of glasshouses and commercial buildings accessed between the application site and number 45 Harwich Road. These buildings are mainly redundant or used as storage.
- 1.3 The site is located outside of the 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 being almost equidistant from the Arleigh and Lawford settlements.
- 1.4 Of particular relevance in this instance is the appeal decision for number 43 Harwich Road located approximately 20 metres to the west of the application site (appeal reference APP/P1560/W/18/3218683 allowed on 3rd May 2019). Application 18/00649/FUL for the erection of 1 no. 1.5 storey dwelling was refused due to the location of the site being outside the defined development boundary and future occupants having to rely on their car to go about their everyday lives. However, the Inspector concluded that the location of bus stops in close proximity to the site and the frequency of bus service meant that sustainable travel other than by private car would be reasonably practicable in this location.
- 1.5 The application seeks full planning permission for the erection of 2 no. three bedroom, detached dwellings 1.5 storey in scale. The detailed design of the dwellings and layout has been amended to allow a better spaced development and to incorporate design features that are characteristic of the area, namely dormer windows. Each dwelling is served by parking and private amenity space that accords with policy and standards. The red line sited area has been amended to include access to the site from Harwich Road.
- 1.6 The principle of residential development in this locality has therefore been established by this recent appeal decision. The scale, height, design and appearance of the dwellings will not result in any material harm to the character and appearance of the area.
- 1.7 Therefore, given the above, the accessibility of services and facilities and the effect of development on the character of the countryside indicate that the site would provide an appropriate location for housing. There would be some intrinsic conflict with Saved Policy QL1 but this would not manifest itself into any harm in terms of its overall objectives or result in social, economic or environmental harm.

- 1.8 A legal agreement is required for this application to secure a financial contribution towards Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). At the time of writing this report, the legal agreement is not yet complete.
- 1.9 The principle of residential development in this location has been established by the recent appeal decision. The application provides a development that is acceptable in terms of design, access, residential amenity and visual impact and is recommended for approval subject to the necessary conditions and legal agreement requirements set out below.

Recommendation: Approval

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

- a) **Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):**
- **Financial Contribution towards RAMS**
- b) Subject to the conditions stated in section 8.2
- c) That the Head of Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

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

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

EN1 Landscape Character

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

COM6 Provision of Recreational Open Space for New Residential Development

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SPL1 Managing Growth

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.2 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.
- 2.3 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.
- 2.4 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.

2.5 In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

3. Relevant Planning History

99/00722/FUL	Proposed rear addition to increase size of lounge	Approved	24.06.1999
19/01667/FUL	Erection of two dwellings.	Current	

4. Consultations

ECC Highways Dept.

A site visit has been undertaken and the information that was submitted in association with the application has been fully considered by the Highway Authority. The proposed dwellings will utilise the existing vehicular access for the host dwelling. and commercial use that will continue within the overall boundary of the site. Both properties will retain adequate off-street parking and turning, for the existing and proposed dwelling 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. There should be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. 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 users of the access and the public highway in the interests of highway safety in accordance with policy DM1.

2. No unbound materials shall be used in the surface treatment of the existing or new vehicular accesses throughout.

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.

3. Prior to the first occupation of the proposed dwellings, the existing vehicular access to the 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.

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. All off-street car parking shall be in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8.

5. The Cycle / Powered Two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

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

6. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway.

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

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the

County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

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

Informative 2: It is not essential to have a speed hump shown at the start of the new private drive due to the length and number of dwellings proposed for this private/shared vehicular access as shown on amended proposed site plan, drawing: Ab102b.

Informative 3: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 4: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

5. Representations

5.1 Lawford Parish Council object to the application on the following grounds;

- Over Development.
- Not in Keeping.

- Will set a precedent.
- This is Agricultural land - change of use will be required.

These objections are addressed within the main assessment.

5.2 A total of 9 representations have been received in relation to the original and amended plans; 4 in support, 4 in objection and 1 observation.

These are summarised below and addressed within the main assessment.

Representations objecting to the application can be summarised as follows;

- Will not allow right of access over driveway.
- A number of existing dwellings and businesses use the access amounting to approximately 30+ vehicles a day.
- Damage to driveway during construction.
- Unsuitable access and turning for large vehicles/emergency vehicles.
- No visitor turning or parking resulting in vehicles reversing over the shared driveway or into the highway.
- Unsuitable drainage/sewerage/water provision that cannot accommodate 2 further dwellings and would cause upheaval to existing dwellings.
- Forward of existing building line.
- Over development.
- Out of keeping with existing properties.
- Will set a precedent for further housing around the existing smallholdings.

Representations in support of the application can be summarised as follows;

- Adopted plan out of date and emerging plan not yet adopted.
- Council are unable to demonstrate 5 year housing land supply.
- High quality, affordable homes will benefit the area.
- Well-designed spacious plots in keeping with area.
- Nestled into their surroundings and will blend well.
- Suitable off road parking.
- Located on direct bus route to Colchester and Manningtree (with train stations).
- Much needed housing within an area that has sufficient infrastructure
- No harm to neighbouring amenities will occur.
- Good, clear visibility possible from access.
- Future occupants will help support small local business.

The 1 letter of observation sets out the current lawful use of the land as agriculture and that a change of use of land will be required.

6. Assessment

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Planning and Appeal History;
- Principle of Development (including Layout, Scale and Appearance);
- Access and Parking;
- Residential Amenities;
- Trees and Landscaping;

- Legal Obligations - Recreational Impact Mitigation;
- Legal Obligations - Open Space/Play Space Contribution; and,
- Other Matters.

Site Context

- 6.2 The application relates to the land to the west of number 45 Harwich Road, Lawford. The application site extends approximately 0.12 hectares in size and comprises an open grassed area of land between numbers 45 and 44 on the southern side of Harwich Road. The plot associated with number 45 extends some 400m in depth to the rear with a total overall site area in the region of 7 acres.
- 6.3 On the front boundary with the highway there is an established coniferous hedge. To the rear of the site are a range of glasshouses and commercial buildings accessed between the application site and number 45 Harwich Road.
- 6.4 Comments provided within the neighbour representations suggest that there are a number of businesses still in operation together with some separate units of living accommodation. Planning records do not show any evidence of planning permission for these uses or dwellings. Additional information provided by the Agent in response to the objections (received on 8th January 2020) states that the buildings to the rear associated with 45 Harwich Road are mainly redundant or used as storage in connection with the dwelling.
- 6.5 The site is located outside of the 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 being almost equidistant from the Arleigh and Lawford settlements.

Proposal

- 6.6 The application seeks full planning permission for the erection of 2 no. three bedroom, detached dwellings 1.5 storey in scale.
- 6.7 Following concerns with the design of the proposed dwellings, officers have negotiated amendments. The dwellings have been reduced from 4 bed to 3 bed properties allowing for a simplified front elevation incorporating design features that are characteristic of the area, namely dormer windows. The garages originally proposed have been removed and the layout amended to allow for a more spacious development with 2 parking spaces to the side of each dwelling.
- 6.8 The red line sited area has also been amended to include access to the site from Harwich Road and the appropriate notice served on the owners of number 46 Harwich Road.
- 6.9 The dwellings will be accessed via the existing shared access with the creation of a shared driveway to the frontage of the new dwellings positioned behind the front boundary conifer hedgerow.
- 6.10 As stated on the proposed plans, the dwellings are to be finished in red brickwork with a dark red brick plinth, cedar vertical cladding to the dormers and rear gable projection with a concrete pantile roof.

Planning and Appeal History

- 6.11 Of particular relevance in this instance is the planning and appeal history for land adjacent number 43 Harwich Road located approximately 20 metres to the west of the application site. Application 18/00649/FUL for the erection of 1 no., 1.5 storey dwelling was refused due to

the location of the site being outside the defined development boundary and future occupants having to rely on their car to go about their everyday lives. The development was allowed under appeal reference APP/P1560/W/18/3218683 on 3rd May 2019 where the Inspector concluded that the location of bus stops in close proximity to the site and the frequency of bus service meant that sustainable travel other than by private car would be reasonably practicable in this location.

- 6.12 As a result of this appeal, outline planning permission (considering access) for the erection of 1 no. dwelling at number 56 Harwich Road (on the corner with Tile Barn Lane) was approved by officers under delegated powers on 2nd December 2019 under planning application reference number 19/01496/OUT.
- 6.13 The planning history at number 31 Harwich Road is also applicable to the consideration of this current application (as highlighted by the Member Referral). Application reference 19/01361/OUT sought outline planning permission with all matters reserved for the erection of 4 no. houses on land to the rear of number 31 Harwich Road and was refused by officers on 9th January 2020. This decision took into account the above-mentioned appeal decision and was refused due to the out of character backland nature of the development and not due to the location of the site being outside of the settlement development boundary. For these reasons, the site and proposed development considered under reference 19/01361/OUT is not directly comparable to application before Members.

Principle of Development

- 6.14 The principle of residential development in this location has been established by the above-mentioned appeal decision. For completeness, the principle of residential development in this locality will be assessed in full, referring to the appeal decision where relevant.
- 6.15 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.
- 6.16 The National Planning Policy Framework 2019 (NPPF) requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.
- 6.17 At the time of writing 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. 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. 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. The sustainability of the application site is therefore of particular importance.

Economic Objective

- 6.18 The proposal would create economic benefits during construction and through local spending by the new occupiers. This echoes the conclusions made by the Inspector within paragraph 14 of the appeal decision (Appeal Ref: APP/P1560/W/18/3218683).

Social Objective

- 6.19 Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations therefore being in line with the aims of the aforementioned paragraph 8 of the NPPF. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.
- 6.20 The site is almost equidistant from the Ardleigh and Lawford settlements. Ardleigh is identified as a village within saved Policy QL1 of the adopted Tendring District Local Plan 2007 and is defined as a Smaller Rural Settlement within Policy SPL1 of the emerging Tendring District Local Plan Publication Draft (2017). Lawford is defined as a Town within the saved Policy QL1 of the adopted Tendring District Local Plan 2007 and is defined as a Smaller Urban Settlement in recognition of the large range of local services offered.
- 6.21 There are bus stops within approximately 0.4 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. Sustainable travel other than by private car would be reasonably practicable in this case. For these reasons, there would be no harm caused through the location of the proposed dwellings. The proposal, being situated outside defined settlement development boundaries would be in conflict with Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which sets out the spatial strategy for Tendring to 2011. However, this policy is several years beyond its defined period of implementation and out-of-date. There would also be no harm caused by reason of the proposal's location. Therefore, the proposal's conflict with this policy must be given very limited weight. This echoes the conclusions made by the Inspector within paragraph 14 of the appeal decision (Appeal Ref: APP/P1560/W/18/3218683).

Environmental Objective

- 6.22 As mentioned above, paragraph 8 of the 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 including making effective use of land. Paragraph 127 of the NPPF states that developments should function well, should add to the overall quality of the area, are visually attractive as a result of good architecture and layout and are sympathetic to local character. Saved Policies QL9, QL10 and QL11 of the adopted Tendring District Local Plan (2007) 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 Emerging Plan. Saved Policy HG14 requires a minimum of 1 metre side isolation between dwellings.

- 6.23 The proposed dwellings would form part of a clearly-identifiable ribbon of development along Harwich Road with numerous residential dwellings and commercial buildings directly adjacent or near to the site. The development would not constitute isolated homes in the countryside, being viewed alongside existing dwellings and against a backdrop of built form. Furthermore, the front boundary hedgerow will provide some screening and softening of the proposed development.
- 6.24 The immediate character to this section of Harwich Road sees a number of semi-detached properties, each pair being spaciouly separated. Whilst the introduction of detached dwellings within this context would appear as a slight discrepancy, the separation distance between the proposed dwellings and its neighbours retains an appropriate level of spaciousness as to not appear cramped or wholly out of keeping with the existing pattern of development.
- 6.25 Due to the bend in the road, the proposed dwellings would be sited in line with number 44 Harwich Road but approximately 3 metres forward of number 45 Harwich Road. The siting of the dwellings would retain a set back from the highway edge of approximately 23 metres further screened by the existing front boundary hedge. The proposed dwellings would not appear prominent, nor would their somewhat unaligned siting appear harmful to the character of the area given the significant set back from the highway.
- 6.26 The 1.5 storey scale of the development is considered appropriate being no higher than the ridge heights of both neighbouring properties. Following concerns with the detailed design of the proposed dwellings, amendments have been secured reducing the dwellings from 4 bed to 3 bed properties, allowing for a simplified front elevation incorporating design features that are characteristic of the area, namely dormer windows. The garages originally proposed have been removed and the layout amended to allow for a more spacious development meeting the aims of Policy HG14 of the adopted Local Plan. The proposed materials are considered to be acceptable and will appear in keeping with the character of the area. However, precise details will need to be secured by condition.
- 6.27 The proposed development would deliver 2 additional homes which would be a benefit given the NPPFs aim to make a more efficient use of land and significantly boost the supply of housing, which the Council are currently not achieving due to failure to provide a 5-year supply.
- 6.28 On balance, the introduction of 2 dwellings on the site would not result in any significant visual harm in terms of the character of the area or result in any wider landscape impact. Therefore, the adverse impacts of the proposal would not significantly and demonstrably outweigh its benefits when assessed against the policies in the NPPF taken as a whole.
- 6.29 Objections have been received expressing concern that the proposal would constitute overdevelopment, does not following the existing building line, would be out of character and would set a precedent. However, the site is already part of an established ribbon development of residential and commercial properties along Harwich Road and the proposed dwellings would be sufficiently spaced from its neighbouring structures and retain a good set back from the highway. As such, it would not harm the character of the area or therefore set a harmful precedent. This echoes the conclusions made by the Inspector within paragraph 14 of the appeal decision (Appeal Ref: APP/P1560/W/18/3218683).

Access and Parking

- 6.30 Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.31 The Council's current Adopted Parking Standards require that for dwellings with 3 bedrooms a minimum of 2 parking spaces be provided per unit. The preferred bay size for cars is 5.5 metres by 2.9 metres and the minimum bay size is 5 metres by 2.5 metres. Furthermore, 0.25 visitor parking spaces per dwelling should also be provided.
- 6.32 The development will be accessed via the existing access off Harwich Road which currently serves 45 and 46 Harwich Road with clear visibility possible in both directions. There is conflicting information in relation to the use of the buildings to the rear of the site and number of vehicles currently using the site or able to use the site in the future. Nonetheless, the additional traffic movements associated with 2 dwellings cannot be considered excessive or harmful to highway safety. The development provides parking, turning and visitor parking of an appropriate level to serve the proposed dwellings.
- 6.33 Essex County Council as the Highway Authority has been consulted on the application and raise no objection subject to conditions which will be imposed where necessary having regard to the scale of development.
- 6.34 Objections have been raised in relation to highway safety, land ownership and access rights. Land ownership and access rights are not a material planning consideration. These are legal matters between the relevant parties. In the absence of any objection from The Highway Authority, a refusal based on highway safety is not justified in this instance.
- 6.35 Objections have also been raised in relation to disturbance and obstruction during construction. This is an inevitable and short term impact of the development process and cannot constitute a reason for refusal. However, a condition securing the submission and approval of a Construction Method Statement (controlling construction times and deliveries) will minimise and mitigate the impacts on neighbouring properties.

Residential Amenities

- 6.36 Paragraph 127 of the NPPF states that planning should always seek to secure a good standard of amenity for all existing and future occupants. In addition, Policy QL11 of the Tendring District Local Plan (2007) 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'. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives.
- 6.37 The proposed dwellings retain a decent separation distance of over 11 metres to the donor dwelling at number 45 Harwich Road and over 15 metres to the neighbouring property to the west at number 44 Harwich Road. The spacing between dwellings and presence of only one small side facing en-suite window will ensure that no material loss of outlook, loss of light or overlooking will occur to existing or future occupants.
- 6.38 Policy HG9 of the adopted Tendring Local Plan 2007 states that a 3 bedroom dwelling should be served by a minimum of 100 square metres of private amenity space. The amended plans

demonstrate that this level of amenity space can be achieved for both the new dwellings and donor dwelling.

Trees and Landscaping

- 6.39 The main body of the application site is set to grass and does not contain any trees or other significant vegetation. On the boundary with the highway there is an established coniferous hedge that provides a reasonable level of screening.
- 6.40 It would be desirable for the boundary hedge to be retained. If it were deemed necessary for it to be removed then replacement planting should be secured.
- 6.41 The retention of the existing hedgerow and further soft landscaping to soften, screen and enhance the appearance of the development can be secured by appropriately worded planning conditions.

Financial Contribution – Open Space and play Space

- 6.42 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". These sentiments are carried forward within emerging Policy HP5.
- 6.43 In line with the requirements of saved Policy COM6 and emerging Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space.
- 6.44 No contribution is being requested from the Open Space Team on this occasion.

Financial Contribution – Recreational Disturbance

- 6.45 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.
- 6.46 The application scheme proposes a residential on a site that lies within the Zone of Influence (Zoi) being approximately 2400 metres from the Stour and Orwell Estuaries Ramsar and SPA. New housing development within the Zoi would be likely to increase the number of recreational visitors to the Stour and Orwell Estuaries 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.
- 6.47 A unilateral undertaking has been requested to secure this legal obligation and is currently being prepared. This will ensure 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 Matters

- 6.48 Objections have been raised in relation to the impact of 2 further dwellings on the existing sewerage and drainage provision and the need for a change of use of the land from agricultural to residential.

6.49 If Members resolve to approve the application then the use of land will become residential as part of the proposed development. A separate change of use application would not be required in this instance.

6.50 The application form submitted as part of this application states that the proposed dwellings will connect to the mains sewer and the existing drainage system, details of which are included on the accompanying plans. The precise drainage details will be dealt with at the building control stages of the development. Due to the minor scale of the application, there is no requirement to consult with the local water authority.

7. Conclusion

7.1 The principle of residential development in this locality has been established through the recent appeal decision and subsequent delegated approval. Having regard to the accessibility of services and facilities and the effect of the development on the character of the area, the site would provide an appropriate location for housing. There would be some basic conflict with Saved Policy QL1 but this would not manifest itself into any harm in terms of its overall objectives or result in social, economic or environmental harm.

8. Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a Unilateral Undertaking with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS.	£122.30 per dwelling

8.2 Conditions and Reasons

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

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

2 The development hereby permitted shall be carried out in accordance with the following approved plans: PMA/516 AB100b, PMA/516 AB102d, PMA/516 AB103b and PMA/516 AB104b.

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

3 Prior to the commencement of any above ground works, precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction of the development have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - The development is publicly visible and therefore sympathetic materials are a visually essential requirement and insufficient information has been provided within the application.

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

Reason - In the interests of visual amenity, the quality of the development and the character of the area.

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

Reason - To ensure the adequate retention and maintenance of the approved landscaping scheme for a period of five years in the interests of visual amenity, the quality of the development and the character of the area.

- 6 No above ground level works shall take place until precise details of the provision, siting, design and materials of screen walls and fences have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the occupation of the development and thereafter be retained in the approved form unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure that the development is appropriate within its setting as insufficient details have been provided with the application.

- 7 Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no provision of fences, walls or other means of enclosures shall be erected forward of the front elevation of the dwellings hereby approved.

Reason - In the interests of visual amenity.

- 8 Notwithstanding the provisions of Schedule 2 Part 1 Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no extensions, additions, porches or alterations to the dwellings or their roofs shall be carried out and no outbuildings, enclosures, swimming or other pools shall be erected except in complete accordance with details which shall previously have been approved, in writing, by the Local Planning Authority following the submission of a planning application for such development.

Reason - To ensure that sufficient private amenity space for the dwelling is retained in the interests of residential amenities.

- 9 There should be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across

the entire site frontage. 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 users of the access and the public highway in the interests of highway safety.

- 10 No unbound materials shall be used in the surface treatment of the existing or new vehicular accesses throughout.

Reason - To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

- 11 Prior to the first occupation of the proposed dwellings, the existing vehicular access to the private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of the Highway Boundary.

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.

- 12 Prior to the first occupation of the dwellings hereby approved the parking and turning areas as shown on approved drawings, shall be constructed and made ready for use. All parking and turning areas shall be retained in this approved form.

Reason - To ensure sufficient off-street parking provision is provided in the interests of highway safety.

- 13 Prior to the commencement of development, a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. The Construction Method Statement shall provide for:

- safe access to/from the site;
- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- wheel washing facilities;
- measures to control the emission of dust and dirt during demolition and construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- details of hours of deliveries relating to the demolition and construction of the development;
- details of hours of site clearance or construction;
- a scheme to control noise and vibration during the demolition and construction phase, including details of any piling operations.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason - In the interests of residential amenity and highway safety and to reduce the likelihood of complaints of statutory nuisance.

8.3 Informatives

Positive and Proactive Statement

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

Legal Agreement Informative - Recreational Impact Mitigation

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

Highways Informatives

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

Informative 2: It is not essential to have a speed hump shown at the start of the new private drive due to the length and number of dwellings proposed for this private/ shared vehicular access as shown on amended proposed site plan, drawing: Ab102b.

Informative 3: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 4: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Informative 5: Areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway 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.

9. Additional Considerations

Public Sector Equality Duty (PSED)

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

Human Rights

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

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.

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

10. Background Papers

10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.