

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	11/02/2020
Planning Development Manager authorisation:	AN	13/02/2020
Admin checks / despatch completed	CC	13/02/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	<i>RL</i>	13/02/2020

Application: 19/01740/OUT **Town / Parish:** Ardleigh Parish Council

Applicant: Mr Bill Marshall - Wambugu Ltd

Address: Land to The North of Mount View Fox Street Ardleigh

Development: Outline planning application with all matters reserved for the construction of 9 no. custom build/self build dwellings, access road and pavement.

1. Town / Parish Council

Ardleigh Parish Council

Ardleigh Parish Council wishes to object to the application for reasons as given last time an application for 9 properties was made at this address. The Council consider that this would constitute over-development in what is essentially a rural area. There would be concerns about precedent, pressure on services and traffic, and the Council does not believe that there is a need for this number or type of housing in this location.

2. Consultation Responses

ECC SuDS Consultee
Original Comments

Thank you for your email which provides Essex County Council (ECC) with the opportunity to assess and advise on the proposed surface water drainage strategy for the aforementioned planning application. As the Lead Local Flood Authority (LLFA) this ECC provides advice on SuDS schemes for major developments. ECC have been statutory consultee on surface water since the 15th April 2015.

In providing advice this Council, and their appointed consultants, looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

Having reviewed the documents which accompanied the planning application, we would recommend the issuing of a holding objection on the basis of the following:

- The information provided does not allow us to assess the development. Please provide information as required within the Outline Design Checklist on Essex County Council's website: <https://flood.essex.gov.uk/new-development-advice/how-to-design-suds-in-essex/outline-drainage-design-checklist/>
- Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, ECC advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

Should further correspondence be required, please contact the SuDS team directly using the below details.

**ECC SuDS Consultee
Amended Comments**

The response dated the 22nd November was a holding objection as there was no drainage information provided at the time therefore it was unclear what the drainage strategy was. My colleague was therefore unable to assess the application.

As there has now been information uploaded which matches that in which was approved previously for application 19/01148/OUT I have updated the response.

Thank you for your email which provides Essex County Council (ECC) with the opportunity to assess and advise on the proposed surface water drainage strategy for the aforementioned planning application. As the Lead Local Flood Authority (LLFA) this ECC provides advice on SuDS schemes for major developments. ECC have been statutory consultee on surface water since the 15th April 2015.

In providing advice this Council, and their appointed consultants, looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

Having reviewed the documents which accompanied the planning application, we do not object to the granting of planning permission based on the following conditions:

Condition 1

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753. It should also be based on ground water monitoring taken within the winter months to see the highest average ground water levels.
- If infiltration is found to be unviable then discharge rates will be limited to 1l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. Where possible, features such as the basin should still be left unlined in order to promote as much infiltration as possible.
- Further investigation of the well to confirm the sensitivity of the ground water resource. If it is found necessary, further treatment may be required.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1:30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

Reason

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- To provide mitigation of any environmental harm which may be caused to the local water environment
- Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

Condition 2

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason

The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

Condition 3

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

Condition 4

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason

To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

We also have the following advisory points:

- It should be made clear to all those self-building and all those building on someone's behalf that we require the roof water and the surface water deriving from the driveways to be appropriately treated before being discharged.
- The driveways where possible are recommended to be made from permeable paving or something similar to provide interception storage and initial treatment.

Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, ECC advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

Essex County Council
Archaeology

Thank you for consulting the Historic Environment advisor on the above application. The Historic Environment Record shows the above application lies adjacent to a known historic brickyard (EHER 15565) and south of the historic farmstead of Fen Farm. No other known archaeological sites are recorded in the immediate area and the parcel of land is likely to have been in agricultural use for some time. Due to the location and scale of the proposed development no archaeological recommendations are being made on this application.

Anglian Water Services
Ltd
ECC Highways Dept

No comments received.

All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.

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 road junction / access (with Harwich 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 aforementioned 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. As indicated on block plan, drawing no. 001 and prior to the first occupation of the development, the proposed Private Drive at its bell-mouth junction with Harwich Road shall be provided with 6.0m radius kerbs returned to an access road carriageway width of 5.5m with a flanking single footway 2m. in width returned around the south-west radius kerb only.

Reason: To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety and in accordance with Policy DM 1 and 6.

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 DM 1.

4. 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.

5. Prior to occupation of the development each vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 3.6 metres (equivalent to 4 drop kerbs), shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.

6. No development shall take place, including any ground works or demolition, until a Construction Method Statement has been

submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

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

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

7. As per and in principal with the proposed block plan the proposed access road shall be provided, but not be limited to, the following aspects;

- Carriageways measuring no less than 5.5m in width.
- 2x2m Footways on both sides of the access road.
- Appropriate pedestrian crossing facilities where appropriate.
- Or a combined pedestrian and vehicular surface of 6m in width.
- All internal road junctions should be provided with 25m x 2.4m x 25m vehicular visibility splays.
- A forward visibility splay of 25 metres needs to be provided on each corner/bend of the development these will need to be hardened so they can be adopted.
- Kerb radii measuring 6m.
- Any other reasonable items to ensure the access is in accordance with current policy standards.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner 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: 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

2: 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

Essex County Council
Heritage

Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

The application is for outline planning application with all matters reserved for the construction of 9 no. custom build/self build dwellings, access road and pavement.

There appears to be no significant change compared to the last application and therefore my previous consultation remains unchanged which is copied below. Furthermore, the application does not contain a Heritage Statement which considers the setting of the listed building, and the impact of the proposed development. As such, I do not consider the application compliant with para 189 of the NPPF.

My previous consultation stated:

The main heritage asset for consideration is Grade II listed Fen Farmhouse (List Entry ID: 1147598).

The list description states:

House. C15/C16 central range, C17 or earlier right range, C18/C19 left and rear ranges. Timber framed and plastered. Red plain tiled roofs, some diamond patterning to right range. Left half hip with chimney stack to right of left one storey and attic range. Central 2 storey range with rear range. Right one storey and attic range, right external chimney stack and single storey lean-to with pantile roof. Gabled dormer to right and left ranges, 1:2:1 window range, C19 2 light casements to dormers, C19 vertically sliding sashes with margins to left and central ranges. C20 3 light small paned casement to right range. Gabled painted brick porch to left range and vertically boarded door, surround with brackets to slanting canopy. Interior features include C17 inserted ceiling to right-range. Centre range with arched braces to tie beams, jowls to ground and first floor storey posts, heavy flat section ceiling beams, heavy side purlin roof. C18 vertically boarded doors. Back to back fireplace. Original dairy/kitchen with meat hooks on ceiling beams. Loft door in kitchen ceiling. Sometimes called School Farm, farmed in 1796 by Philips Bromley of Moze Hall but owned by Earls Colne Grammar School. F.H. Erith "Ardleigh in 1796", 1978.

The proposed development is located within undeveloped land in the immediate environs of the historic farmhouse and adjacent to the historic trackway which leads to it.

The proposed development will cause harm to the setting of the farmhouse and the way this is understood, experienced and appreciated. This will cause harm to the setting of what was an isolated structure in an undeveloped location, this will be particularly relevant considering environmental, diurnal and seasonal changes. I do not support this application. I consider this harm less than substantial and therefore paragraph 196 of the NPPF is relevant.

3. Planning History

19/01148/OUT

Outline planning application with all matters reserved for the construction of 9 no. custom

Refused

01.11.2019

build/self build dwellings, access
road and pavement.

**Appeal in
Progress**

See main report for other relevant planning and appeal history.

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL1 Spatial Strategy

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species

EN13 Sustainable Drainage Systems

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN23 Development Within the Proximity of a Listed Building

COM6 Provision of Recreational Open Space for New Residential Development

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

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL3 Sustainable Design

LP1 Housing Supply

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

LP7 Self-Build and Custom-Built Homes

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

HP5 Open Space, Sports & Recreation Facilities

PPL9 Listed Buildings

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 relates to a parcel of land approximately 1.29 hectares in size located to the north of the property known as Mount View, location off Fox Street within the Parish of Ardleigh.

The site is described on the accompanying application form as garden and amenity land of Mount View. However, 14/01081/LUEX refused a lawful use certificate for use of the land as residential curtilage and there are no other planning records to show that this land has been granted planning permission for a change of use to residential curtilage since the refused certificate. The site therefore forms part of the countryside in planning terms.

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).

To the north of the site is the Grade II listed property known as Fen Farm.

Description of Proposal

The application seeks outline planning application with all matters reserved for the construction of 9 no. custom build/self-build dwellings, access road and pavement.

This application follows a previous refusal for the same development on the site under planning application reference 19/01148/OUT which is subject of a current appeal.

Assessment

The main considerations in this instance;

- Principle of Development (including Impact on Heritage Asset);
- Self Build / Custom Built Dwellings;
- Trees and Landscaping;
- Residential Amenities;
- Access, Parking and Highway Safety;
- Affordable Housing;
- Sustainable Drainage;
- Biodiversity and Protected Species;
- Financial Contributions - RAMS;
- Financial Contributions - Open Space;

- Other Matters - Additional Information/Change in Circumstances Since Previous Refusal; and,
- Representations.

Principle of Development (including Impact on Heritage Asset)

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 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.

- Assessment of Sustainable Development

While the NPPF advocates a plan-led approach, it is important to consider whether any circumstances outweigh the conflict. Development should be plan led unless material considerations indicate otherwise and it is accepted that the site is not in a preferred location for growth.

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. These are assessed below.

- economic;
- social, and;
- environmental roles.

The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary.

- Economic

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

- Social

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 17 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.

Ardleigh is categorised in emerging Policy SPL1 as a 'Smaller Rural Settlement' in recognition of its size and small range of local services.

Socially, it is necessary to consider the proximity of the site to destinations such as convenience shopping, education, healthcare, community halls and jobs.

There have been a number of applications for residential development in the locality under which the social objective of sustainable development has been considered acceptable. This stems from appeal decisions where the inspector concluded the accessibility to public transport and the proximity to Colchester were sufficient to determine the locality as socially sustainable. One being appeal reference APP/P1560/W/16/3152285 (planning application number 15/01730/FUL) for Demolition of old commercial chicken sheds and erection of detached bungalow and double garage at Wyldberrry Fox Street Ardleigh Colchester Essex CO7 7PP (to the east of the application site). Within paragraphs 9 and 10 of the decision the Inspector concluded that;

'...the appeal site is close to a bus stop which appears to provide a fairly regular service between Colchester and Harwich. Furthermore, any journeys by car would be relatively short and the number of trips associated with a single dwelling would not be significant. Moreover, I am mindful the Framework advises that all aspects of sustainability should be considered in planning decisions, and that opportunities to maximise sustainable transport solutions will vary from urban to rural areas (paragraph 29).

In my view, Colchester and Ardleigh would be within acceptable cycling distance of the site and would be a realistic travel option for future residents, accordingly there is some scope for travel by cycle and walking. Although it may not be suitable for all and even if the majority of journeys were to be made by the private car, nonetheless, there would be a choice of transport modes for future residents as envisaged by paragraph 35 of the Framework, which requires that developments are located where practical to give priority to pedestrian and cycle movements and have access to high quality public transport facilities.'

Other recent approvals in the locality include;

- 19/00427/FUL - Mount View Fox Street Ardleigh Essex CO7 7PS
Proposed demolition of existing dwelling and erection of four bungalows.
- 18/02015/OUT - Land Between Chantry's and Nia Roo Fox Street Ardleigh Essex CO7 7PS
(incorporating some of Mount View)
Proposed two dwellings.
- 18/01575/OUT - Chantrys Fox Street Ardleigh Colchester Essex CO7 7PS
Outline application for one self build dwelling.

In this regard, the current application can be considered as follows. Fox Street is a smaller rural settlement being defined separately to Ardleigh but is situated approximately 800m from Welshwood Park to the south, part of the urban conurbation of Colchester. Fox Street is the A137 principal road

between Colchester and Manningtree. It is served by three bus routes, namely 102, 103 and 104 which provide a half hourly service with 28 buses per day in each direction from 6.51am to 11.17pm from Colchester to Ardleigh, Manningtree and Harwich. Welshwood Park/St John's provide a number of shopping and employment facilities. Furthermore, there are commercial premises in a northerly and southerly direction.

There would be an appropriate level of services, facilities and infrastructure nearby to serve the scale of the development proposed and the occupiers of the dwellings would not be unduly dependant on their car. The number of trips by private car associated with 4 dwellings would be low and journeys by car would be short. Travel patterns generated by 4 dwellings in this location would not cause environmental harm.

The site is therefore considered to perform reasonably against the social objective of sustainable development. It would be unreasonable to refuse planning permission on this basis.

- Environmental

The environmental role is about contributing to protecting and enhancing the natural and built environment which is considered below. In this instance, the impact on the setting of the adjacent heritage asset is a consideration.

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, Paragraph 184 of the NPPF states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Specifically Paragraph 196 of the NPPF 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.

Although the site could not be described as isolated due to the presence of dwellings around the site, the immediate locality is predominantly characterised by fairly loosely spaced and sporadic residential development. There are some closer knit dwellings fronting Fox Street in a linear arrangement but these do not relate to the character of the application site itself which has no main road frontage and bounds the open countryside. The application site is located within a clear break in built form within an expanse of openness extending into the open agricultural fields beyond. The development would represent an unacceptable incursion into the countryside being uncharacteristic of its surroundings. Any built development in the countryside, by definition, leads to a loss of landscape and an alteration of landscape character. The 'domestication' of the landscape and, despite screen planting, the presence of new built development in it would be evident from the highway. This would cause significant harm to the character and appearance of the rural landscape, in conflict with saved Policy EN1 of the adopted Tendring District Local Plan and draft Policy PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). As a result of the development the site would be urbanised. Its existing open and undeveloped character to the rear of the linear frontage would be eroded. The development would be harmful to the character and appearance of the area failing to make a positive contribution to the quality of the local environment and failing to protect or enhance local character. Furthermore, the development would set an undesirable precedent for further piecemeal development of the adjoining fields further eroding the rural and landscape.

In addition, the proposed development is located within undeveloped land in the immediate environs of the historic Grade II Listed farmhouse Fen Farm and adjacent to the historic trackway which leads to it. It is considered that the proposed development will cause harm to the setting of the farmhouse and the way this is understood, experienced and appreciated. This will cause harm to the setting of what was an isolated structure in an undeveloped location, this will be particularly relevant considering environmental, diurnal and seasonal changes. The development is therefore contrary to paragraph 196 of the NPPF. Furthermore, the application is not accompanied by a Heritage Statement which considers the setting of the listed building, and the impact of the proposed development and as such, the application also fails to comply with paragraph 189 of the NPPF.

Whilst the provision of 9 dwellings would make a modest contribution to the provision of housing in the district, the adverse impacts would significantly and demonstrably harm the character of the area therefore failing the environmental strand of sustainability outweighing any economic and social benefits of the scheme.

Self-Build / Custom Built Dwellings

The National Planning Policy Guidance (NPPG) tells us that The Self-build and Custom Housebuilding Act 2015 requires each relevant authority to keep a register of individuals and associations of individuals who are seeking to acquire serviced plots of land in the authority's area in order to build houses for those individuals to occupy as homes (referred to in the guidance as self-build and custom housebuilding registers). The guidance accompanies the Self-build and Custom Housebuilding (Register) Regulations 2016 made under the Act.

The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) provides a legal definition of self-build and custom housebuilding. The Act does not distinguish between self-build and custom housebuilding and provides that both are where an individual, an association of individuals, or persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals.

Section 2 (1) of the Self-build and Custom Housebuilding Act 2015 (as amended) places a duty on relevant bodies to have regard to each self-build and custom housebuilding register that relates to their area when carrying out their plan-making and decision-taking functions. The registers that relate to their area may be a material consideration in decision-taking. Plan-making functions should use their evidence on demand for this form of housing from the registers that relate to their area in developing their Local Plan and associated documents.

Section 2A (2) of the Self-build and Custom Housebuilding Act 2015 (as amended) states that the Authority must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to an authority's register. Section 2A (6) (c) states that permission is 'suitable' if it is permission in respect of development that could include self-build and custom housebuilding, and Section 5 (1) states that a 'serviced plot of land' means a plot of land that has access to a public highway and has connections for electricity, water and waste water.

The Council does have a Custom and Self-Build Register. This is split into different 'Base Periods'. The Government gives Councils three years to identify enough sites to cover the demand for that Base Period. The table below shows the current confirmed numbers in relation to explicit self-build permissions;

Base period	From	To	Number entered on register in this period	Demand to be met within three years, by:
1	01/04/2016	30/10/2016	2	30/10/2019
2	31/10/2016	30/10/2017	6	30/10/2020

3	31/10/2017	30/10/2018	30	30/10/2021
4	31/10/2018	30/10/2019	24	30/10/2022
5	31/10/2019	Present		

The Council has granted planning permission for a sufficient number of suitable serviced plots of land since the beginning of each base period to meet the demand arising in that base period.

The above notwithstanding, there is sufficient harm being caused from the proposed development from other areas to not solely rely on 'lack of demand' as the principle objection to the scheme.

Policy LP7 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) is a new policy which aims to satisfy the requirements set out within legislation and national policy and guidance. There is no equivalent saved policy within the adopted Local Plan (2007) as this pre-dates the Self-build and Custom Housebuilding Act 2015 (as amended).

The NPPF is silent on policies relating directly to the delivery mechanism for self-build or custom-built dwellings.

Emerging Policy LP7 states that the Council will consider, on their merits, proposals for Self-Build and Custom-Built Homes on land outside of settlement development boundaries, where they will still support a sustainable pattern of growth in the District. Such developments must either:

- a. be located on a site safely accessible on foot within 600 metres of the edge of the settlement development boundary of one of the District's 'strategic urban settlements' or 'smaller urban settlements'; or,
- b. be located on a site safely accessible on foot within 400 metres of the edge of the settlement development boundary of one of the District's 'rural service centres'; or,
- c. involve the redevelopment of vacant or redundant previously developed land that can be shown, with evidence, to be unviable for employment use.

Whilst the emerging Local Plan is progressing well, Draft Policy LP7 has not yet been scrutinised by the Planning Inspectorate by an appeal or through the Local Plan process. It can therefore only be given very limited weight. Other policies such as Draft Policy SPL1 have been endorsed by the Planning Inspector as being in line with the NPPF.

For completeness, an assessment of the development against emerging Policy LP7 has been carried out. In this instance, Ardleigh does not fall within the definition of either a. or b. being defined as a smaller rural settlement. The site is located a considerable distance from the defined Ardleigh settlement. The edge of the settlement is not safely accessible on foot.

Draft Policy LP7 does not recognise the edge of Smaller Rural Settlements as suitable areas for the delivery of self-build and custom-built homes which echoes the sentiments of emerging Policy SPL1 which identifies these settlements as the least sustainable locations for growth.

The proposal therefore fails to meet the requirements of draft Policy LP7 due to the settlement category and distance from the edge of the settlement. Draft Policy LP7 c. is not relevant to this proposal.

Regardless of the need identified through our Self-build and Custom Housebuilding Register or the merits of the application in relation to Draft Policy LP7, the self-build aspect of the proposal is not considered to constitute a material consideration that warrants a departure from the Local Plan and there are no exceptional circumstances that outweigh the environmental harm identified.

The status of Draft Policy LP7 means that a refusal based on the development not meeting the criteria of this policy is not required at this time. This assessment has been based upon planning appeal history as set out below.

Appeal reference APP/P1560/W/18/3193494 (planning application reference 17/00847/OUT) for Outline planning permission with all matters reserved for the residential development of 0.4ha of land to create three detached self-build or custom-build houses at Land Part of Crestland Wood House Ford Lane Alresford Colchester Essex CO7 8AX is of relevance in this instance. Paragraph 12 of the appeal decision concludes;

'The appellant refers to Policy LP7 of the emerging Local Plan which encourages the provision of opportunities for constructing self-build and custom built homes within the District. However, I have given the emerging Local Plan only limited weight. Therefore, even if the scheme did accord with this policy, it would not overcome the harm I have identified.'

Furthermore, also of relevance is appeal reference APP/P1560/W/18/3212047 (planning application reference 18/00095/OUT) for Erection of one detached self-build or custom build dwelling at The Nursery Bromley Road Ardleigh Colchester Essex CO7 7SQ. Paragraphs 11 and 12 state;

'Reference has been made to the emerging Tendring and District Local Plan 2013-2033 and Beyond Publication Draft (2017) (the Emerging Plan), specifically draft Policy LP7, which encourages the provision of sites for self-build and custom-built homes. The Emerging Plan is at an advanced stage and can therefore be given weight. However, the proposed development runs contrary to draft Policy LP7 as it is written in the Emerging Plan.

Whilst the site lies within a wider area of land currently in mixed use, including commercial use, and could be considered as a brownfield site, the environmental harm that I have identified above outweighs this consideration.'

Finally appeal reference APP/P1560/W/19/3223621 (planning reference 18/01980/OUT) for Residential development to create one self-build/custom built house at Warrens Farm Church Road Little Bentley Colchester Essex CO7 8RZ Paragraph 21 states;

'The proposed dwelling would comprise a self-build project for which there is Government support. However, the Planning Practice Guidance³ makes it clear that the purpose of the self-build register is to inform the Council about the demand for housing as part of their evidence base, in line with paragraph 61 of the Framework. The fact that the development could be self-build would not make the proposal acceptable or overcome the harm I have identified above.'

Whilst it is noted that the applicant has provided copies of other appeal decisions in support of this application that deal with self-build matters, these hold very limited weight in the consideration of this application. These are not directly comparable to this application, or the character of the site and relate to sites outside of the Tendring District. The above-mentioned appeal decisions deal directly with the issues relevant to this District and our Emerging Local Plan 2017 and therefore hold more weight as a material consideration in the determination of this application.

Affordable Housing

Paragraph 34 of the National Planning Policy Framework states that Local Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required.

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

The size of the site on this application is 1.29 hectares and so the requirement for affordable housing is triggered. The proposal is for 9 dwellings.

Paragraph 64 of the NPPF states that where major development involving the provision of housing is proposed, planning policies and decisions should require home to be available for affordable home ownership required in the area. Paragraph 64 (c) states that exemptions to this requirement should be made where the site or proposed development is proposed to be developed by people who wish to build or commission their own homes. In this instance, for the reasons set out above, this exception is not applicable to this site and consideration of the application against affordable housing requirements is relevant to the application.

Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available for affordable or Council Housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement.

There is a high demand for housing in Ardleigh from households on the housing register and we currently have 109 households on the housing register seeking a 1 bedroom home, 91 seeking a 2 bedroom home, 60 seeking a 3 bedroom home and 24 seeking a 4 bedroom home.

Under the terms of the council's emerging local plan, 30% of homes on eligible sites should be delivered as affordable housing so on this application this would constitute 2.7 homes (3 rounding up). Whilst the council would prefer to see affordable housing delivered on site, it is unclear whether another registered provider would want to take on discounted homes that would be built using off-site modern methods of construction or just the plots themselves. In light of this, whilst the site requires affordable housing to be delivered, this should be delivered as an off-site financial contribution in lieu of on-site provision.

The neighbouring site approved under 19/00427/FUL for 4 homes in the same ownership as this current application and is accessed via a private drive within the ownership of the applicant. The affordable housing requirements should take into the account the total number of homes being delivered on the 2 sites. The total number of properties being proposed on the 2 sites is 13 homes. The council's emerging local plan requires 30% of homes on eligible sites to be delivered as affordable housing. 30% of 13 properties equates to 3.9 properties (4 rounding up).

A completed Section 106 agreement to secure the above-mentioned planning obligations has not been provided and the application is therefore contrary to the above policies.

Trees and Landscaping

The main body of the application site has been cleared of vegetation and is currently bare earth with establishing weed growth. There are one or two small oaks in the main body of the land and the site boundaries are well planted with established trees; mainly Oak.

In order to show the potential impact of the development proposal on the existing trees on the land the applicant has provided an Arboricultural Impact Assessment (AIA) as part of a tree survey and report. This information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.

The AIA shows the extent of Root Protection Areas (RPA's) and is supported by technical details of the trees ' in particular Diameter at Breast Height (DBH). The report provided an accurate description of the health and condition of the trees as well as showing the extent that they constrain the development potential of the land

The information provided by the applicant shows the extent of the developable land which broadly aligns with the indicative site layout provided by the applicant.

This indicates that the development of the land appears to be possible without causing harm to the boundary trees.

Residential Amenities

The NPPF, in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. 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'. Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) supports these objectives.

The indicative layout shows plot 9 adjacent to the existing property known as 'Fox Hill' and plot 1 to the rear of 'Chantry's'. The application is made in outline form with all matters reserved. Officers are satisfied that the size of the site and boundary vegetation would mean that site can accommodate dwellings in the locality shown on the indicative plan without resulting in a harmful impact to the residential amenities of the neighbouring dwellings. The scale, appearance and window placement would all be matters for consideration at the reserved matters stage of the application process.

Access to the proposed dwellings and recently approved 4 dwellings opposite, would be via the existing private drive off Fox Street. The traffic movements associated with the additional dwellings will result in some noise disturbance to the neighbouring property 'Chantry's' which is located directly adjacent to the private drive access. However, the dwelling is set in from its side boundary with an outbuilding alongside and movements would be slow moving (due to the unmade nature of the private drive) reducing the noise levels. For these reasons and due to the location of the dwellings adjacent to the busy Fox Street and associated traffic noise, the development cannot be considered significantly harmful in this regard and a refusal on this basis is not justified in this instance

Officers consider that sufficient space is available on site to provide a development that could achieve an internal layout and separation distances that would not detract from the amenities of any nearby dwellings or the future occupiers of the proposed dwellings and would provide private amenity areas in excess of the standards set out within Saved Policy HG9 of the adopted Local Plan.

Access, Parking and Highway Safety

Saved Policy QL10 of the Saved Plan 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.

Officers consider that sufficient space is available on site to provide a development that could achieve access, turning and parking in line with the requirements the Council's current adopted Parking Standards.

Essex County Council Highway Authority raise no objection subject to conditions.

Sustainable Drainage

A SuDSmart Pro Report reference: 72201R2 dated 2019-10-10 sets out the Proposed SuDS features as follows;

'Proposed SuDS features comprised of permeable surfaces, soakaways, infiltration basins and swales should aim to attenuate 337 m³ of surface water runoff before infiltrating to ground, pending further site investigation. This would ensure surface water runoff is stored on Site in SuDS features for the 1 in 100 year event plus 40% climate change, will not cause flooding to the development and exceedance routes are managed to ensure flood risk is managed for the lifetime of the property.'

Having regard to the report submitted, The Lead Local Flood Authority do not object to the granting of planning permission subject to conditions.

Biodiversity and Protected Species

The site can be described as cleared of vegetation with bare earth weed growth with the site boundaries being well planted with established trees with open countryside beyond. These characteristics together with neighbouring objections highlight the potential harm to biodiversity and protected species.

Saved Policies EN6 'Biodiversity' and EN6a 'Protected Species' of the adopted Tendring District Local Plan 2007 state that development proposals will not be granted planning permission unless existing local biodiversity and protected species are protected. A similar approach is taken in draft Policy PPL4 Biodiversity and Geodiversity of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Paragraph 170 of the National Planning Policy Framework 2019 require that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value whilst paragraph 174 requires Local Planning Authorities to safeguard components of local wildlife-rich habitats. Paragraph 99 of Circular 06/2005 states that "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision" it goes on to state "The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances". Paragraph 5.3 of government document 'Planning for Biodiversity and Geological Conservation: A Guide To Good Practice', states that "In the development control process, the onus falls on the applicant to provide enough information to enable the Local Planning Authority to assess the impacts on biodiversity and geological conservation. Planning applications must be supported by adequate information". Standing advice from Natural England recommends that an initial scoping or extended Phase 1 habitat survey should be conducted to assess the site and the results of this used to inform (the need for and carrying out of) subsequent species specific surveys.

The previous application under reference 19/01148/OUT was not accompanied by the necessary ecology report and this therefore formed a reason for refusal. This current application is accompanied by a Preliminary Ecological Appraisal Project Ref: 1207 by Adonis Ecology Ltd. A desk study was undertaken in addition to an extended Phase 1 Habitat Survey which was conducted on the 30th July 2019.

It is noted that the report refers to a site area of 1.4ha and a proposal for ten residential units which is not the case.

Overall, the site was considered to be of moderate ecological value with some possible potential for great crested newts, significant potential for reptiles and nesting birds, and a moderate diversity of plant species on the site. With the tree and hedgerow features being retained, the impacts were largely considered to be to species potentially using the grass and ruderal habitats, and further assessment/surveys are recommended to determine the presence/likely absence of reptiles and great crested newts on the site.

The further surveys identified within the Preliminary Ecological Appraisal have not been undertaken. No evidence has been provided to outweigh the need to protect such species in accordance with the tests outlined in Article 16 of the EC Habitats Directive. Therefore, the Local Planning Authority is unable to say with confidence that the proposal will not have an adverse impact on a species protected by Schedules 1, 5 and 8 of the Wildlife and Countryside Act 1981 and would therefore be contrary to saved Policies EN6 and EN6a as well as draft plan Policy PPL4. It would also be contrary to Paragraphs 170 and 174 of the National Planning Policy Framework, which requires that biodiversity should be protected and that significant harm should be avoided. In this case it is unknown whether significant harm will be caused. As such, the proposal is in conflict with the aforementioned policies, guidance, directive and the Framework.

Financial Contributions - RAMS

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 new dwellings on a site that lies within the Zone of Influence (Zoi) being is approximately 7000 metres from the Colne Estuary Ramsar and SPA.

New housing development within the Zoi would be likely to increase the number of recreational visitors to the Colne Estuary 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 completed unilateral undertaking has been received to secure the financial contribution required to mitigate against any recreational impact from the new dwelling and to 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.

Financial Contributions - Open Space

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.

However, it is not felt that the development would have an impact on open space provision due to the distance of the site from the nearest facility. No contribution is being sought on this occasion.

Other Matters - Additional Information/Change in Circumstances Since Previous Refusal

A number of additional submissions have been made by the applicant in support of the proposal which aim to set out the change in circumstances from those previously considered under application 19/01148/OUT. These can be summarised and addressed as follows;

- Correspondence and accompanying historic maps showing the evolution of Fen Farm (the heritage asset) and impact of existing development on its setting.
The scale and impact of the examples given are not comparable to the development currently being considered. Furthermore, the examples provided pre-date current national planning policy. These do no alter the views of the Historic Environment Manager who continues to object to the development for the reasons set out above.
- Historic and recent planning approvals showing the evolution of the residential development in the vicinity.
The scale and impact of the examples given are not comparable to the development currently being considered in terms of the environmental considerations and harm identified. The relevant nearby planning and appeal history has been referred to within the assessment above when considering the social objective of sustainable development.
- Correspondence regarding the modifications to Section 1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft June 2017 in relation to draft Policy SP1.
This Inspector has yet to come to a decision on the above mentioned plan following the closure of the Section 1 Examination in Public. It is therefore premature to begin incorporating suggestions in planning decisions. Whether or not changes to Policy

SP1 are made, this policy only really reiterates the presumption in favour of sustainable development set out within the NPPF. Whether this be the 2012 or 2019 versions makes very little difference as the general thrust of the policy remains the same. This notwithstanding, the above considerations do not materially affect the assessment of this application. The adverse impacts demonstrably outweigh any benefits of the proposal.

- Statement of Case setting out national policy considerations and the merits of the application. ***This is not an appeal and a statement of case is not a requirement in this instance. The information contained within this statement which refers to the proposed modifications to Section 1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft June 2017 has been addressed above. All other material planning considerations relevant to the determination of this application have been covered within the main assessment above.***

Officers recognise that the applicant is willing to negotiate, however, the issues are so fundamental to the proposal that it would not be been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified above.

Representations

Ardleigh Parish Council objects to this application for the following reasons;

- A 9 further properties at this location would constitute overdevelopment in what is essentially a rural area.
- 13 large detached properties (including 19/00427/FUL) is too dense for the location.
- Would set a harmful precedent.
- Pressure on services and traffic.
- No nearby amenities.
- Occupants would be dependent on car / increased traffic.
- Not the type of housing which the Parish Council feel is most needed in our village.

A total of 14 letters of representation have been received. The concerns and comments made that constitute material planning considerations can be summarised as follows;

- No change since previous refusal.
- No demonstrable housing need for this area.
- No nearby amenities.
- Lack of infrastructure.
- No footpaths or safe pedestrian routes.
- Severe increase in traffic from the cars associated with the total of 13 dwellings.
- Unsuitable, narrow, unmade track to serve this many dwellings.
- Harmful to highway safety on this busy main road.
- Self-builds result in many different contractors exacerbating the disturbance during construction.
- Set a harmful precedent for further development.
- Harm to biodiversity and wildlife - site recently cleared and trees felled.
- Air and noise pollution from additional traffic.
- Out of keeping and harmful to the hamlet character of the area.
- Not allocated for housing in the local plan.
- Overlooking and loss of privacy.
- Unsustainable location.

These matters have been addressed in the main report above.

- Refusal at neighbouring authority (Colchester).

The decision must be based upon planning and appeal history within this district.

4 of the representations received are in support of the application. These outline the support for self-build properties in the area considered to be in great demand; will give choice in the evolving housing market for personalisation, eco homes and grand designs; it allow Tendring an opportunity to offer self-builders the prospect of 'Homes For Life' that are close to employment, shops, services and outside activities. They consider that no harm to the character of the area will result and that the site is sustainable.

Conclusion

The proposal is considered to represent an unsustainable form of development due to the environmental harm and harm to the heritage asset identified above. The application also fails to satisfy the affordable housing requirements relevant to the development. There has been no material change in policy or circumstances since the previous refusal under planning application reference 19/01148/OUT that overcome or outweigh the harm identified or require the application to be considered differently. The application is therefore recommended for refusal.

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 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.

While the NPPF advocates a plan-led approach, it is important to consider whether any circumstances outweigh the conflict. Development should be plan led unless material considerations indicate otherwise and it is accepted that the site is not in a preferred location for growth.

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. 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, Paragraph 184 of the NPPF states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Specifically Paragraph 196 of the NPPF 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.

Although the site could not be described as isolated due to the presence of dwellings around the site, the immediate locality is predominantly characterised by fairly loosely spaced and sporadic residential development. There are some closer knit dwellings fronting Fox Street in a linear arrangement but these do not relate to the character of the application site itself which has no main road frontage and bounds the open countryside. The application site is located within a clear break in built form within an expanse of openness extending into the open agricultural fields beyond. The development would represent an unacceptable incursion into the countryside being uncharacteristic of its surroundings. Any built development in the countryside, by definition, leads to a loss of landscape and an alteration of landscape character. The 'domestication' of the landscape and, despite screen planting, the presence of new built development in it would be evident from the highway. This would cause significant harm to the character and appearance of the rural landscape, in conflict with saved Policy EN1 of the adopted Tendring District Local Plan and draft Policy PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). As a result of the development the site would be urbanised. Its existing open and undeveloped character to the rear of the linear frontage would be eroded. The development would be harmful to the character and appearance of the area failing to make a positive contribution to the quality of the local environment and failing to protect or enhance local character. Furthermore, the development would set an undesirable precedent for further piecemeal development of the adjoining fields further eroding the rural and landscape.

In addition, the proposed development is located within undeveloped land in the immediate environs of the historic Grade II Listed farmhouse Fen Farm and adjacent to the historic trackway which leads to it. It is considered that the proposed development will cause harm to the setting of the farmhouse and the way this is understood, experienced and appreciated. This will cause harm to the setting of what was an isolated structure in an undeveloped location, this will be particularly relevant considering environmental, diurnal and seasonal changes. The development represents less than substantial harm under paragraph 196 of the NPPF, and this harm is not outweighed by the public benefits of nine dwellings. Furthermore, the application is not accompanied by a Heritage Statement which considers the setting of the listed building, and the impact of the proposed development and as such, the application also fails to comply with paragraph 189 of the NPPF.

Whilst the provision of 9 dwellings would make a modest contribution to the provision of housing in the district, the adverse impacts would significantly and demonstrably harm the

character of the area therefore failing the environmental strand of sustainability outweighing any economic and social benefits of the scheme.

- 2 Paragraph 34 of the National Planning Policy Framework 2019 (NPPF) state that Local Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required. Paragraph 63 of the NPPF states provision of affordable housing should be sought for residential developments that are major developments. Within the glossary of the NPPF (2019), major development is defined as development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. The size of the site on this application is 1.29 hectares and so the requirement for affordable housing is triggered.

Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available for affordable or Council Housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement.

There is a high demand for housing in Ardleigh from households on the housing register and we currently have 109 households on the housing register seeking a 1 bedroom home, 91 seeking a 2 bedroom home, 60 seeking a 3 bedroom home and 24 seeking a 4 bedroom home.

Under the terms of the council's emerging local plan, 30% of homes on eligible sites should be delivered as affordable housing so on this application this would constitute 2.7 homes (3 rounding up). Whilst the council would prefer to see affordable housing delivered on site, it is unclear whether another registered provider would want to take on discounted homes that would be built using off-site modern methods of construction or just the plots themselves. In light of this, whilst the site requires affordable housing to be delivered, this should be delivered as an off-site financial contribution in lieu of on-site provision. The neighbouring site approved under 19/00427/FUL for 4 homes in the same ownership as this current application and is accessed via a private drive within the ownership of the applicant. The affordable housing requirements should take into the account the total number of homes being delivered on the 2 sites. The total number of properties being proposed on the 2 sites is 13 homes. The council's emerging local plan requires 30% of homes on eligible sites to be delivered as affordable housing. 30% of 13 properties equates to 3.9 properties (4 rounding up).

A completed Section 106 agreement to secure the above-mentioned planning obligations has not been provided and the application is therefore contrary to the above policies.

- 3 Saved Policies EN6 'Biodiversity' and EN6a 'Protected Species' of the adopted Tendring District Local Plan 2007 state that development proposals will not be granted planning permission unless existing local biodiversity and protected species are protected. A similar approach is taken in draft Policy PPL4 Biodiversity and Geodiversity of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Paragraph 170 of the National Planning Policy Framework 2019 require that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value whilst paragraph 174 requires Local Planning Authorities to safeguard components of local wildlife-rich habitats. Paragraph 99 of Circular 06/2005 states that "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision" it goes on to state "The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances". Paragraph 5.3 of

government document 'Planning for Biodiversity and Geological Conservation: A Guide To Good Practice', states that "In the development control process, the onus falls on the applicant to provide enough information to enable the Local Planning Authority to assess the impacts on biodiversity and geological conservation. Planning applications must be supported by adequate information". Standing advice from Natural England recommends that an initial scoping or extended Phase 1 habitat survey should be conducted to assess the site and the results of this used to inform (the need for and carrying out of) subsequent species specific surveys.

This current application is accompanied by a Preliminary Ecological Appraisal Project Ref: 1207 by Adonis Ecology Ltd. A desk study was undertaken in addition to an extended Phase 1 Habitat Survey which was conducted on the 30th July 2019. Overall, the site was considered to be of moderate ecological value with some possible potential for great crested newts, significant potential for reptiles and nesting birds, and a moderate diversity of plant species on the site. With the tree and hedgerow features being retained, the impacts were largely considered to be to species potentially using the grass and ruderal habitats, and further assessment/surveys are recommended to determine the presence/likely absence of reptiles and great crested newts on the site.

The further surveys identified within the Preliminary Ecological Appraisal have not been undertaken. No evidence has been provided to outweigh the need to protect such species in accordance with the tests outlined in Article 16 of the EC Habitats Directive. Therefore, the Local Planning Authority is unable to say with confidence that the proposal will not have an adverse impact on a species protected by Schedules 1, 5 and 8 of the Wildlife and Countryside Act 1981 and would therefore be contrary to saved Policies EN6 and EN6a as well as draft plan Policy PPL4. It would also be contrary to Paragraphs 170 and 174 of the National Planning Policy Framework, which requires that biodiversity should be protected and that significant harm should be avoided. In this case it is unknown whether significant harm will be caused. As such, the proposal is in conflict with the afore-mentioned policies, guidance, directive and the Framework.

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.