

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	10 th March 2020
Planning Development Manager authorisation:	AN	10/3/20
Admin checks / despatch completed	CC	13/3/20
Technician Final Checks/ Scanned / LC Notified / UU Emails:	AN	13/3/20

Application: 19/01909/OUT **Town / Parish:** Ardleigh Parish Council

Applicant: Mr McCracken

Address: Land at 44 Harwich Road Lawford Manningtree

Development: Proposed new dwelling.

1. Town / Parish Council

Ms Clerk to Ardleigh
Parish Council

We understand that permission has already been granted for a new property which would neighbour this one. Although this may be considered a precedent, the Parish Council wishes to object. There has already been significant recent development within our Parish including a number of applications which fall outside the settlement development boundary. The emerging Tendring District Local plan sets out that development should be focussed towards the larger urban areas and within boundaries defined in the local plan.

Our understanding is that the housing land supply shortfall in Tendring is now relatively modest, and we do not believe that there is any need for further large/ detached dwellings in Ardleigh. Our small village should not be considered a sustainable location for growth- public transport is inadequate the location of 44 Harwich Road is such that village amenities are not within walking distance leading to further reliance on cars adding to congestion and travel difficulties. Furthermore, our local facilities including GP surgery and primary school are already at capacity. We wish to protect the rural areas in and around our village and are concerned that further development would result in harmful urbanisation and would be damaging to the rural character of our Parish.

2. Consultation Responses

UU Open Spaces	No contribution is being requested from Open Spaces on this occasion.
Tree & Landscape Officer	Should planning permission be likely to be granted then consideration should be given to new planting between the dwelling and the highway to soften and enhance the appearance of the development.
Building Control and Access Officer	Nothing to comment upon at this time.

3. Planning History

97/00085/FUL	(44 Harwich Road, Ardleigh) Alterations and extension to form first floor addition	Approved	24.02.1997
04/00936/FUL	Two storey extension	Approved	22.06.2004
19/01909/OUT	Proposed new dwelling.	Current	

4. Relevant Policies / Government Guidance

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

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG9 Private Amenity Space

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

PPL4 Biodiversity and Geodiversity

Local Planning Guidance

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

No. 44 is sited on the south side of Harwich Road, forming part of a clearly-identifiable ribbon of development within the locale.

Typically the dwellings are arranged in pairs of semi-detached; notwithstanding this a detached dwelling was allowed on appeal in July 2019 on the immediately-adjacent plot to the north-east.

The plot is comparable in both shape and size to the adjacent plot, being in the region of 868sqm.

There is a verdant and very much low-key, semi-rural character to the locale primarily as a result of the existing dwellings being set back within their plots, a high degree of established boundary trees and residential development [typically] occupying only the south side of the road.

Description of Proposal

The application seeks outline planning permission with all matters reserved for the erection of a detached dwelling.

Assessment

The main planning considerations are:

- Principle of Development;
- Layout, Scale and Appearance;
- Neighbouring Amenities;
- Highway Considerations;
- Biodiversity;
- Financial Contributions - RAMS;
- Financial Contributions - COM6;
- Representations; and,
- Other Considerations.

1. Principle of Development:

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 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

The proposal would create economic benefits during construction and through local spending by the new occupiers.

Social Objective

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.

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.

There are bus stops within approximately 0.4 miles of the 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 dwelling.

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.

Environmental Objective

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.

The proposed dwelling 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.

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, a detached dwelling on land adjacent No. 43 Harwich Road (immediately to the north-east) has been allowed on appeal.

As this is an outline application with all matters reserved, no details have been finalised in regards to siting, scale or design. A dwelling that is no greater than two-storey, with a similar 'forward' building line that was sited centrally within the plot is likely to continue to respect the character of built form in the area by not introducing a dominant form of development. Planting can further add further screening which is a prominent informal feature of the locale.

The proposed development would deliver 1 additional home 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.

On balance, the introduction of a dwelling 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.

2. Layout, Scale, Design

The Government attach great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design.

Saved Policies QL9, QL10 and QL11 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Emerging Policy SP1 reflects these considerations.

The application site appears to currently form part of the residential curtilage of the property and the main body of the application site is set to grass and does not contain any trees or other significant vegetation. An Oak tree (*Quercus robur*) grows on the northwest corner of land forming the curtilage of 44 Lawford Road Harwich, on the southern edge of the highway verge.

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.

As this is an outline application with all matters reserved, no details have been finalised in regards to siting, scale or design. A dwelling that is no greater than two-storey, with a similar 'forward' building line that was sited centrally within the plot is likely to continue to respect the character of built form in the area by not introducing a dominant form of development. Planting can further add further screening which is a prominent informal feature of the locale.

3. Neighbouring Amenities:

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

As this is an outline application with all matters reserved, no details have been finalised in regards to the external appearance; ergo the location of first-floor side facing windows. Subject to any first

floor side facing windows being obscurely glazed the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

Different dwelling sizes and types provide accommodation for individuals and families with a wide range of expectations and need for private amenity space. "Private amenity space" comprises a private outdoor sitting area not overlooked by adjacent or opposite living rooms or outdoor sitting areas. It will therefore not necessarily always amount to the entire rear garden. Apart from its private recreation function, private amenity space is also important in achieving well laid out development.

Private amenity space shall be provided to new dwellings in accordance with the following standards:- a three or more bedroom house - a minimum of 100 square metres; two bedroom house - a minimum of 75 square metres; one bedroom house - a minimum of 50 square metres. In accordance with the policy requiring the area to not be overlooked by adjacent or opposite living rooms or outdoor sitting areas, the proposed dwelling would have sufficient private amenity space available if it were a three-bedroom property.

Overall the proposal is considered to secure a good standard of amenity for future occupants of the proposed dwelling.

4. Highways/Parking

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.

The Council's current 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.

The proposed dwelling will utilise an existing vehicular access for the host dwelling. When compared with the former commercial use, the level of activity will be considerably reduced while the nature of vehicles will also change for the site. It appears that both properties will retain adequate off-street parking and turning, for the existing and proposed dwelling.

5. Trees & Landscaping

The proposal to construct an access into this land from the highway, and to build a house within the land, with all mains services connected, has the potential to affect the tree unless appropriate design and mitigation measures are taken. Given the size of the site, and the width of the frontage, there is no need for the access or the proposed building to encroach upon the RPA.

Consideration should be given to further soft landscaping to soften, screen and enhance the appearance of the development should be considered at Detailed stage.

6. Financial Contribution – Open Space and play 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.

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.

No contribution is being requested from the Open Space Team on this occasion.

7. Financial Contribution – Recreational Disturbance

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 these tests, which means that all residential development must provide mitigation. The contribution is secured by unilateral undertaking.

The application scheme proposes a single dwelling on a site that lies within the Zone of Influence (Zoi) being approximately 2,605metres from Stour and Orwell Estuaries. 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.

A unilateral undertaking has been prepared to secure this legal obligation. 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.

8. Representations

Ardleigh Parish Council objects to the application; commenting that:-

We understand that permission has already been granted for a new property which would neighbour this one. Although this may be considered a precedent, the Parish Council wishes to object. There has already been significant recent development within our Parish including a number of applications which fall outside the settlement development boundary. The emerging Tendring District Local plan sets out that development should be focussed towards the larger urban areas and within boundaries defined in the local plan.

Our understanding is that the housing land supply shortfall in Tendring is now relatively modest, and we do not believe that there is any need for further large/ detached dwellings in Ardleigh. Our small village should not be considered a sustainable location for growth- public transport is inadequate the location of 44 Harwich Road is such that village amenities are not within walking distance leading to further reliance on cars adding to congestion and travel difficulties.

Furthermore, our local facilities including GP surgery and primary school are already at capacity. We wish to protect the rural areas in and around our village and are concerned that further development would result in harmful urbanisation and would be damaging to the rural character of our Parish.

One letter of support was received; commenting that:-

PApp 19/01667 was refused at PCtte W12 Feb 20 against the Planning Officer's recommendation for approval citing over development by virtue of the proposal being two detached dwellings. PCtte members stated there was no other issues and if the proposal were to be resubmitted with a pair of semi-detached properties the application would be approved.

This is a sustainable location.

The NEAs 'EB091B Suggested Amendments to the S1 LP Feb 2020 SP1' states :

SUSTAINABLE DEVELOPMENT - When considering development proposals the LPAs WILL take a positive approach that reflects the presumption in favour of SD contained in the NPPF19.

LPA's WILL ALWAYS work proactively with the applicants to find solutions which mean that proposals can be approved where ever possible, and to secure development that improves the economic, social and environmental conditions of the area.

Where there are no policies relevant to the application or relevant policies are out of date the LPA's WILL grant permission.

This application should be approved without delay.

Other Material Considerations

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.

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.

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 this application.

Conclusion

For the reasons set out above, the proposal is considered to represent a sustainable form of development in a location supported by national and local plan policy that will not result in any material environmental or residential harm that warrants refusal of planning permission.

6. Recommendation

Approval - Outline

7. Conditions / Reasons for Refusal

- 1 The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

- 3 No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the access, appearance, landscaping, layout

and scale have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - The application as submitted does not provide sufficient particulars for consideration of these details.

- 4 No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) 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 under body washing facilities
- v. dust suppression techniques

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 5 No development shall take place, including any ground works or works of demolition until the Tree Protection Measures detailed in the Tree Survey (received 16 Dec 2019) are implemented.

Reason - To enhance the appearance of the development and in the interests of amenity.

- 6 All new parking areas and areas of hardstanding shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the site.

Reason - In the interests of sustainable development and to minimise the risk of surface water flooding.

- 7 The proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Footway and provided with an appropriate dropped kerb crossing of the footway/verge 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.

Reason - In the interests of highway safety.

8. Informatives

Application Approved Without Amendment

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission 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.

Are there any letters to be sent to applicant / agent with the decision?		NO
Are there any third parties to be informed of the decision?		NO