

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
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Planning Development Manager authorisation:	AN	12/05/2020
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Application: 20/00158/OUT **Town / Parish:** Ardleigh Parish Council

Applicant: Mr and Mrs Thompson

Address: Land to South West of Ardleigh Bowls Club Colchester Road Ardleigh

Development: Proposed erection of 3 No. Self-Build single storey dwellings, ancillary outbuildings and change of use of land (considering access).

1. Town / Parish Council

Ms Clerk to Ardleigh
Parish Council
14.03.2020

Notwithstanding that there is permission for a building at this location there has already been significant recent development within our Parish including applications which fall outside the settlement development boundary.

Our policy is to object to applications outside the settlement development boundary. The speed of traffic on this stretch of Colchester Road was also noted.

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 and/or detached dwellings in Ardleigh. We will shortly be starting work on a Neighbourhood Plan for Ardleigh which will clarify this further.

Our small village should not be considered a sustainable location for growth- public transport is inadequate and there will be 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

ECC Highways Dept INDICATIVE DRAWING NUMBERED 20/11/02
09.03.2020

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

1 No unbound materials shall be used in the surface treatment of the proposed vehicular access between the highway and connecting access route.

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 of the Highway Authority's Development Management Policies February 2011.

2 The internal Private Drive junction shall be provided clear of any vegetation to ground level on both sides. Such visibility splays shall be provided before the road is first used by vehicular traffic and shall be retained and maintained free from obstruction clear to ground thereafter.
Reason: To ensure a reasonable degree of intervisibility between drivers of vehicles at and approaching the road junction, in the interests of highway safety and in accordance with Policy DM 1 and 6 of the Highway Authority's Development Management Policies February 2011.

3 Prior to first occupation of the proposed development, a communal recycling/bin/refuse collection point shall be provided within 15m of the highway boundary or adjacent to the highway boundary and additionally clear of all visibility splays at accesses and retained thereafter.
Reason: To minimise the length of time a refuse vehicle is required to wait within and cause obstruction of the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

4 All carriageways should be provided at 5.5m between kerbed footways or 6.0m where vehicular access is taken but without kerbing.
Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6 of the Highway Authority's Development Management Policies February 2011.

5 The development shall not be occupied until such time as a car parking and turning area has been provided in accord with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.
Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

6 Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.
Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

7 No development shall take place, including any ground works or works of demolition, until a Construction Management Plan (CMP) 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

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

of the Highway Authority's Development Management Policies February 2011.

Informative1: 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

Cadent Gas Limited
16.03.2020

Thank you for consulting Cadent Gas for this application. We do not object to the proposal in principle.

The easement standoff distance of 15m from the high pressure gas pipeline has been considered. The standoff is to include footings and building overhangs.

- The developers should contact plantprotection@cadentgas.com for further guidance before commencing any construction works on site.

- No works are permitted within the easement without formal written approval from Cadent Gas.

Essex County
Council Heritage
24.04.2020

Built Heritage Advice pertaining to an application for: Proposed erection of 3 No. Self Build single storey dwellings, ancillary outbuildings and change of use of land (considering access).

The proposals are in close proximity to the Grade II listed De Bois Hall (List UID: 1322650).

Though this is an outline application, considering access, the potential harm that the indicative proposals will have on the setting of the designated heritage asset must be considered.

I have no objections to this application.

However, to maintain the setting of the heritage asset, either through conditioning or the reserved matters, I recommend the provision of an appropriate level of screen planting at the northern boundary of the site, and also that the materials to the proposed dwellings be strictly reserved for future applications.

3. Planning History

92/00871/FUL	(Land at Redbury Farm, Colchester Road, Ardleigh) Variation of condition 3 of TEN/1515/90 to permit removal of excavated material from the site	Refused	22.09.1992
94/00328/FUL	(Land adjacent Redbury Farm, Colchester Road, Ardleigh) Change of use from agriculture to	Approved	09.08.1994

	recreational fishing and practice golf including associated single storey pavilion and tool shed		
95/00461/FUL	(Land adjacent to Redbury Farm, Ardleigh) Change of use of land to create a bowling club with related club house and car park	Approved	23.05.1995
95/01020/FUL	(Land adjacent to Redbury Farm, Ardleigh) Club House, above ground water tank (for irrigation) and Control Room for Bowling Green	Approved	18.10.1995
97/00983/FUL	() Renewal of consent TEN/94/0328, change of use of land from agriculture to recreational fishing and golf practice including associated single storey pavilion and tool shed	Approved	31.03.1998
00/01166/FUL	Development of a 9 hole, par 3 golf course	Approved	04.01.2001

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

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

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

LP7 Self-Build and Custom-Built Homes

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL9 Listed Buildings

CP1 Sustainable Transport and Accessibility

HP5 Open Space, Sports & Recreation Facilities

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). 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, whilst housing delivery over the last three years has exceeded requirements, the supply of deliverable housing sites going forward that the Council can demonstrate still 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 the land to the south west of Ardleigh Bowls Club located on the eastern side of John De Bois Hill (A137) within the Parish of Ardleigh. The site extends approximately 0.26 hectares in size. The main body of the application site is rough ground comprising areas of grass and brambles. In close proximity to the site are a number of existing ponds. The boundary with the highway benefits from a strong boundary hedgerow. The site is served by the existing access to Ardleigh Bowls Club. Opposite the site is the Grade II Listed John De Bois Hall.

The site lies outside of the Ardleigh 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).

Description of Proposal

The application seeks outline planning permission for the erection of 3 No. Self-Build single storey dwellings considering access.

Scale, layout, appearance and landscaping are reserved for subsequent considerations.

Although only access is being considered, the following plans accompany the application;

20/11/01I	Topography
20/11/01II	Topography 2
20/11/01III	Topography 3
20/11/02	Proposed Site Layout
20/11/04	Proposed Site Layout
20/11/05	Street Scene
Ls 5631/2	Block Plan
20/11/03	Proposed Floor Plan, Roof Plan and elevations

The development is to be served by the existing access serving Ardleigh Bowls Club supported by 2.4m x 160m visibility splays and turning head as shown on the accompanying Block Plan drawing number LS 5631/2.

The application is considering access only and therefore the scale, layout, appearance and landscaping plans are indicative only.

The description specifies that the development is to be single storey.

Assessment

The main considerations in this instance are;

- Principle of Development;
- Layout, Scale and Impact (including Impact on Heritage Assets);
- Access, Parking and Highway Safety;
- Trees and Landscaping;
- Ecology and Protected Species;
- Residential Amenity;
- Financial Contribution – Recreational Disturbance;
- Financial Contribution – Open Space and Play Space;
- Other Considerations – Self-Build Dwellings; and,
- Representations.

Principle of Development

The site lies outside of the Ardleigh 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. Material considerations include recent and nearby planning and appeal decisions which are referred to where relevant in the assessment below.

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. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary. These are assessed below.

- 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 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. Ardleigh is categorised as a Village in the adopted Local Plan and as a Smaller Rural Settlement in the emerging Local Plan. Socially, it is necessary to consider the proximity of the site to destinations such as convenience shopping, education, healthcare, community halls and jobs.

Of relevance in this regard is application 16/00857/FUL. The site subject of this application is located approximately 50 metres to the northwest of the current application site. Application 16/00857/FUL saw the approval of 2 No. detached self-build dwellings on former amenity/paddock land.

As with above approved development, the proposed development is located adjacent to a pedestrian footpath that leads into the centre of Ardleigh to the north-east which is approximately 20 minutes on foot. Ardleigh has several shops, a primary school, a GP and employment opportunities. Furthermore, the site is located in close proximity to a bus stop on John De Bois Hill that serves the larger nearby settlement of Colchester. Also 750m to the north is a public house and small convenience store situated within a petrol filling station.

As such the application site performs reasonably well in regard to the social objective of the NPPF's definition of sustainable development.

- Environmental

The environmental role is about contributing to protecting and enhancing the natural and built environment which is considered below under the heading Layout, Scale and Impact.

Layout, Scale and Impact (including Impact on Heritage Assets)

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. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.

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. Policy EN23 of the adopted Tendring District Local Plan (2007) states that proposals for development that would adversely affect the setting of a Listed Building will not be permitted. The aims of this policy are

carried forward within Policy PPL9 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). The Grade II John De Bois Hall is located over 60 metres to the south west of the application site on the opposite side of the road. Essex County Council Place Services Historic Environment Team raise no objection to the application on the basis that the setting of the heritage asset could be maintained either through the provision of an appropriate level of screen planting at the northern boundary of the site and through careful consideration of the materials and finishes of the proposed dwellings.

Whilst the development would not amount to any harm to the heritage asset through careful consideration and implementation of the reserved matters, the impact of the development upon the character and appearance of the area is considered to justify a refusal of planning permission.

The residential character in the locality, particularly on the opposite side of the road, is predominately one of more loose knit larger dwellings on larger plots. To the north east of the site is a single dwelling and a small commercial complex with open fields beyond. To the south east of the site is a denser row of dwellings with some examples of bungalows. Although the site could not be considered as isolated or open countryside, the openness of the site and adjacent undeveloped land forms an important physical and visual break which contributes positively to the character of the area and landscape. In addition, the mature boundary planting is a pleasant landscape feature that elevates the visual amenity of the site in the landscape. The indicative layout and elevation plans show 3 detached single storey dwellings in a close knit, linear arrangement set behind the hedgerow and sited away from the row of dwellings to the south east. The development would appear divorced and discordant in this context. The single storey scale of the dwellings and retention of the hedgerow would not fully mitigate the visual impact as the expanse of 3 bland roofs would remain prominent through and above the hedgerow visually eroding the pleasant quality and openness of the site and its landscape features.

Regardless of the Council's 5 year housing land supply position, the introduction of 3 dwellings in the manner suggested in the indicative plans would appear out of character and demonstrably harmful to visual amenity and the character of the landscape therefore failing the environmental objective of sustainable development. Furthermore, the development would set a harmful precedent for additional residential development exacerbating the harm identified above.

The supporting statements provided by the agent repeatedly reference the development to the north west of the site approved under reference 16/00857/FUL as justification for the approval of the development being considered here. Although the economic and social credentials of the development are comparable, the characteristics of the site, design and nature of the proposal are not considered comparable to that approved under 16/00857/FUL.

Access, Parking and Highway Safety

Paragraph 108 of the National Planning Policy Framework 2019 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 and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Furthermore, the Essex County Council Parking Standards 2009 set out the parking requirements for new dwellings.

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

Essex County Council Highway Authority raise no objection to the development subject to conditions. Safe and suitable access to site is achievable via the existing access and there is nothing to suggest that the development would result in any harm to highway safety subject to conditions.

Trees and Landscaping

The main body of the application site is rough ground comprising areas of grass and brambles. The boundary with the highway benefits from a strong boundary hedgerow which provides a good level of screening. There are not trees or other significant vegetation in the main body of the land.

Within the curtilage of the land owned by the applicant but outside the area proposed for development is a mature oak. The tree is described in section 3:14 of The Design and Access Statement submitted in support of the application.

It is clear from the proposed positions of the dwelling^s and the position of the tree that the development of the land could take place without causing harm to the Oak tree.

The indicative site layout shows the retention of the boundary hedgerow and new soft landscaping, including tree planting elsewhere on the application site.

Ecology 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.

A Preliminary Ecological Appraisal referenced 4672,EC/PEA/GG,RF,KL/14-02-20/V1 accompanied the application. Recommendations within the report included further ecological surveys in relation to Great Crested Newt (GCN). A survey for reptiles was recommended if the site was not maintained to a short sward to discourage use of the site by reptiles. It was also recommended that rubble piles on site were removed under supervision of a suitably qualified ecologist during the reptile active season (once GCN risk has been confirmed). The client has provided assurance that the grassland on site will be maintained to ensure the site does not become suitable for reptiles prior to development.

Additional information was received on 22nd April 2020 pertaining to the Great Crested Newt (GCN) environmental DNA (eDNA) of the Ponds 1, 2, 3 and 4, in proximity to the site. The previous Preliminary Ecological Appraisal found Ponds 1 to 3, to be of 'good' suitability to support breeding GCN (ref. R.1), with nearby terrestrial habitat to be impacted under proposals. Pond 4, could not be accessed at the time of the original Habitat Suitability Index, but has been included in the eDNA analysis. Access to Pond 5, was not possible however, presence would be assumed should a positive result be generated within the other ponds. Other ponds beyond 250m were discounted, due to distance and separation from site by physical barriers.

The eDNA results for Pond 1, 2, 3 and 4 are negative, further surveys for this species are not required. No constraints to the development have been identified regarding GCN. In the unlikely event that GCN are encountered during works, these works must cease immediately and a professional ecological consultant must be contacted.

In relation to the original Preliminary Ecological Appraisal report, the debris and rubble piles onsite should be dismantled under the supervision of a suitably qualified Ecologist, between March and October (to avoid impact on reptiles). Grassland should continue to be maintained to a short sward to prevent the need for further reptile surveys. Additionally, a precautionary check for Badger setts immediately prior to construction works would be required.

Residential Amenity

Paragraph 127 of the National Planning Policy Framework states that planning should always seek to secure a good standard of amenity for all existing and future occupants. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives supports these objectives.

Officers consider that sufficient space is available on site to provide a single storey 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.

Financial Contributions – 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 those tests, which means that all residential development must provide mitigation.

The application scheme proposes a residential on a site that lies within the Zone of Influence (Zoi) being approximately 5600 metres from the Stour and Orwell Estuaries SPA and Ramsar. 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 completed unilateral undertaking has been provided to secure this legal obligation 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 Contribution – Open Space and Play Space

Paragraph 54 of the National Planning Policy Framework (2019) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

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.

There is currently a deficit of 1.70 hectares of equipped play/open space in Ardleigh. Any additional development in Ardleigh will increase demand on already stretched facilities and increase the deficit further.

There are two play areas in Ardleigh, one located along Colchester Road, which is classified as a Local Area for Play and another located on Ardleigh Recreation Ground/Millennium Green which is classified as a Local Equipped Area for Play.

Due to the significant lack of facilities in the area it is felt that a contribution is justified and relevant to this planning application. Improvements will be made at the closest play area located on Colchester Road, Ardleigh.

A completed unilateral undertaking has been received to secure the financial contribution required.

Other Considerations – Self-Build 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 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. 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.

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.'

The above-mentioned appeal decisions deal directly with the issues relevant to this District and our Emerging Local Plan 2017 and therefore hold weight as a material consideration in the determination of this application. 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.

Representations

Ardleigh Parish Council object to the proposal. Their comments can be seen in full above. The objections raised can be summarised as follows;

- Outside the settlement development boundary.
- Speed of traffic on this stretch of Colchester Road.
- No need for further large and/or detached dwellings in Ardleigh.

- Public transport is inadequate and there will be further reliance on cars adding to congestion and travel difficulties.
- Local facilities including GP surgery and primary school are already at capacity.
- Harmful urbanisation.
- Would be damaging to the rural character of our Parish.

6 letters of support have been received (3 from the same resident) supporting the location of the dwellings, the scale of dwellings being needed in the area and the self-build aspect of the development.

The reasons why the application is unacceptable have been addressed above.

Conclusion

Due to the visual harm to the locality, character of the area and its landscape, the proposed development represents an environmentally unsustainable form of development. The application is therefore recommended for refusal.

6. Recommendation

Refusal - Outline

7. Reasons for Refusal

- 1 The site lies outside of the Ardleigh 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 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. 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 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. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.

The residential character in the locality, particularly on the opposite side of the road, is predominately one of more loose knit larger dwellings on larger plots. To the north east of the site is a single dwelling and a small commercial complex with open fields beyond. To the south east of the site is a denser row of dwellings with some examples of bungalows. Although the site could not be considered as isolated or open countryside, the openness of the site and adjacent undeveloped land forms an important physical and visual break which contributes positively to the character of the area and landscape. In addition, the mature boundary planting is a pleasant landscape feature that elevates the visual amenity of the site in the landscape.

The indicative layout and elevation plans show 3 detached single storey dwellings in a close knit, linear arrangement set behind the hedgerow and sited away from the row of dwellings to the south east. The development would appear divorced and discordant in this context. The single storey scale of the dwellings and retention of the hedgerow would not fully mitigate the visual impact as the expanse of 3 bland roofs would remain prominent through and above the hedgerow visually eroding the pleasant quality and openness of the site and its landscape features.

Regardless of the Council's 5 year housing land supply position, the introduction of 3 dwellings in this location in the manner suggested would appear out of character and demonstrably harmful to visual amenity and the character of the landscape therefore failing the environmental objective of sustainable development. Furthermore, the development would set a harmful precedent for additional residential development exacerbating the harm identified above.

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 Agent. 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.