

DELEGATED DECISION OFFICER REPORT

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File completed and officer recommendation:	NH	31/07/2020
Planning Development Manager authorisation:	SCE	31.07.2020
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Technician Final Checks/ Scanned / LC Notified / UU Emails:	CD	31.07.2020

Application: 20/00074/FUL **Town / Parish:** Ardleigh Parish Council

Applicant: Mr & Mrs C Mead

Address: Land adjacent to Lamberts Chapel Lane Ardleigh

Development: Proposed erection of a dwelling.

1. Town / Parish Council

Ardleigh Parish Council
13.03.2020

The Council had previously objected to an application on this site as it is not within the settlement development boundary and the TDC Local Plan (both old and emerging) is clear about protecting the areas outside settlements from development and therefore further housing should be refused.

Having reconsidered the new application Ardleigh Parish Council wishes to reiterate the objection and to further note the concerns about potential damage to the rural landscape and outlook in this area.

2. Consultation Responses

ECC Highways Dept
09.03.2020

The information that was submitted in association with the application has been fully considered by the Highway Authority. It is noted that an Outline application for one dwelling was submitted in June 2018 (18/00963/OUT) for the same site. The application appears to provide adequate parking and turning for the proposed dwelling and is utilising an existing vehicle access therefore:

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

1. There should be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.
Reason: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety in accordance with policy DM1.

2. 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.
3. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.
4. There shall be no discharge of surface water onto the Highway.
Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.
5. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.
Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.
6. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.
Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.
7. The Cycle / Powered Two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.
Reason: To ensure appropriate cycle / powered two-wheeler parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.
8. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway.
Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

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

Informative:

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

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

3: 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

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

Essex County Council
Heritage
02.06.2020

Built Heritage Advice pertaining to an application for: Proposed erection of a dwelling.

The proposal affects the setting of Grade II listed Lambert Place (listing ID: 1112084). Part of the significance of the building is derived from its picturesque setting in a rural agrarian landscape, set back from the road.

My response to the previous iteration of the proposals within this application dated 05/03/2020, stated the following:

Policy EN23 of the Tendring Local Plan 2007 states that development that would adversely affect the setting of a Listed Building, including group value and long distance views will not be permitted. The sentiments of this policy are carried forward in Policy PPL9 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Previous overdevelopment of land adjacent to the listed property along Chapel Lane does not mean that further harm to the setting and therefore the historic significance of the property is permissible. The proposal will adversely affect the views from the surrounding countryside towards the substantial thatched roof of the listed building. The proposal will therefore lead to less than substantial harm being caused to the setting and therefore the significance of the designated heritage asset and paragraph 196 of the NPPF is therefore relevant here. Additionally, paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

It is important to relate this application and proposal to the previous application 18/00963/OUT. This previous scheme was also for an erection of a dwelling in the same approximate location when considering the heritage asset as the current application; 20/00074/FUL. This application was refused on heritage grounds, and subsequently dismissed at appeal.

As stated in response to the previous design, development in principle here would result in less than substantial harm to the designated heritage asset. The proposals would result in the continuation of the ribbon development enclosing the listed building. While the design is improved in the current iteration of the proposals, development in principle at this site would still result in harm to the designated heritage asset for the same reasons as in my previous correspondence I have quoted above.

I am therefore unable to support this application.

3. Planning History

00/01027/FUL	Retrospective planning consent for double garage	Approved	24.07.2000
00/01028/LBC	Retrospective planning for double garage. Rendered painted walls with interlocking clay tiles to roof		19.06.2000
02/00801/FUL	Erection of open fronted timber barn for storage of hay/straw	Approved	28.05.2002
91/00578/FUL	Two storey extension and alterations	Approved	23.07.1991
91/00597/LBC	Two storey extension and alterations	Approved	23.07.1991
92/01213/LBC	Residential extension - kitchen and utility	Approved	07.12.1992
92/01214/FUL	Residential extension - kitchen and utility	Approved	07.12.1992
93/00128/LBC	Extension to existing rear single storey extension	Approved	15.03.1993

93/00129/FUL	Domestic extension to form kitchen	Approved	15.03.1993
04/00564/FUL	Extension and detached barn		17.05.2004
04/00565/LBC	Conservatory and barn.	Approved	17.05.2004
74/00079/FUL	Two pre-fabricated stables	Approved	08.03.1974
79/01325/FUL	Sun lounge extn	Approved	14.11.1979
18/00963/OUT	Proposed erection of a dwelling.	Refused Appeal Dismissed	07.08.2018

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

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

EN23 Development Within the Proximity of a Listed Building

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

COM6 Provision of Recreational Open Space for New Residential Development

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

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP2 Housing Choice

LP3	Housing Density and Standards
LP4	Housing Layout
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL9	Listed Buildings
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, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities 'Garden Communities' proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.

The three North Essex Authorities are currently considering the Inspector's advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. 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 (which applies until such time that the figures in the new Local Plan are adopted).

In addition, the actual need for housing (as set out in the emerging Local Plan) 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, as recently endorsed by the Local Plan Inspector. Therefore, in weighing the benefits of residential development against the harm, the Inspector's endorsement of the lower housing requirement figure is a strong material consideration which tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing to address the perceived shortfall – given that, against the Local Plan housing requirement there is, in fact, a surplus of supply as opposed to a shortfall.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site is The Paddocks, Chapel Lane, Ardleigh, which currently forms paddock land, with a series of trees to the front boundary. The character of the surrounding area is typically rural; however there are examples of nearby detached residential properties to the south. The site is not situated within a recognised Settlement Development within both the Saved Tending Local Plan 2007 and the Emerging 2013-2033 Tending Local Plan Publication Draft. To the south of the site is a Grade II Listed Building, known as 'Lambert Place'.

History

Under planning reference 17/00457/FUL, planning permission was refused for the erection of one detached dwelling approximately 15m to the north of the application site on the grounds that the Council was, at that time, very close to being able to identify a five-year supply of deliverable housing and could therefore give greater weight to the core planning principles of the National Planning Policy Framework. The site was therefore considered to be located within a socially unsustainable location.

Under planning appeal reference APP/P1560/W/17/3180509, the application was allowed at appeal. The inspector acknowledged that the proposal would not adhere to Policy QL1 and would be sited within the countryside; however considered that the conflict with the policy was not of such significance to withhold permission, given the modest scale of development and that a dwelling had previously been approved in close proximity to the site (planning reference 17/00494/FUL - when the Council was unable to demonstrate a five-year supply of deliverable housing).

Under planning reference 18/00963/OUT, planning permission was refused for the erection of one detached dwelling due to the application site being socially unsustainable and the harm to the setting of the Listed Building. The decision was taken to appeal and dismissed under appeal reference APP/P1560/W/18/3212705 by the Planning Inspectorate on 8th May 2019 as the proposed development would harm the setting of the listed building at Lamberts.

Proposal

This application seeks planning permission for the erection of one dwelling.

Assessment

The main considerations for this application are;

- Principle of development
- Layout, Scale, Appearance
- Residential Amenities
- Highway Safety and Parking Provision
- Trees and Landscaping
- Financial Contributions - Open Space
- Habitat Regulations Assessment
- Other Considerations

1. Principle of development

The site lies outside of the Settlement Development Boundary for Ardleigh as defined by 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 appeal decisions.

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.

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). These smaller villages are considered to be the least sustainable locations for growth and there is a concern that encouraging too much development in these areas will only serve to increase the number of people having to rely on cars to go about their everyday lives. It is accepted that each of these smaller rural settlements can achieve a small scale increase in housing stock over the plan period. To allow for this to happen, Settlement Development Boundaries have been drawn flexibly, where practical, to accommodate a range of sites both within and on the edge of villages and thus enabling them to be considered for small-scale residential 'infill' developments. With this in mind, where appropriate the emerging Local Plan settlement development boundary has been extended but does not include the application site.

In applying the NPPF's presumption in favour of sustainable development, the adverse impacts of the proposal, both on the undeveloped character of the locality and on the Council's ability to manage growth through the plan-led approach, are not outweighed by the benefits. The development is unnecessary and there are no public benefits that might warrant the proposal being considered in an exceptional light. The proposal is therefore contrary to the aims of paragraphs 15, 17 and 20 of the NPPF and contrary to the development plan Saved Policy QL1 and emerging Policy SP1.

- Assessment of Sustainable Development

Officers consider that Saved Policy QL1 and emerging Policy SPL1 are in line with the aforementioned aims of the NPPF. However, until such time as the emerging local plan has been adopted, and for the purposes of completeness in assessing sustainable development, the 3 dimensions as set out under Paragraph 8 of the NPPF can be addressed as follows;

Economic:

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

Social:

The NPPF seeks to support a prosperous rural economy. It promotes sustainable transport and seeks a balance in favour of sustainable transport modes to give people a real choice about how they travel recognising that opportunities to maximise solutions will vary between urban and rural areas. With regard to the social dimension, this means supporting strong, vibrant and healthy communities by supplying the housing required to meet the needs of present and future generations and creating a high quality environment with accessible local services.

Within appeal reference APP/P1560/W/18/3212705, paragraph 17, the planning inspectorate has stated that ' the site lies outside Crockleford Heath and some 2 miles from Ardleigh's settlement development boundary. Ardleigh is described by the Council as having no defined village centre, employment area or train station, but the appellant has highlighted the presence of a post office/village shop, doctor's surgery, public houses, church, primary school and service station. Colchester's centre is some 4 miles distant, with the suburb of Greenstead situated approximately 1.6 miles from the site. Greenstead has a range of shops, library, pharmacy, schools and a community centre. There is a bus service along Bromley Road nearby'.

Within paragraph 19, the Planning Inspectorate has stated that the application site is 'located outside the Settlement Development Boundary for Ardleigh as defined by the LP, the proposed development would be located within the countryside and would therefore be in conflict with LP policy QL1. The Council has raised concerns about the proposed development's location with regard to the site's accessibility to services and facilities by different modes of transport'. The Inspectorate explained that 'I have been referred to a High Court judgement and appeal decisions regarding isolated development in the countryside. Given the proximity of other residential properties along Chapel Lane, the proposed new home would not be far away from other buildings or people, and would not be isolated in terms of paragraph 79 of the Framework'.

Paragraph 21 states that 'the site is some distance from services and facilities in Ardleigh and Greenstead. While it is not impossible for journeys to take place on foot, by bicycle, or by public transport to access services and facilities, the rural roads have limited lighting and footpath provision. As a result, it would potentially feel physically isolated and unsafe for pedestrians or cyclists dependent on the time of day. I therefore consider that most journeys to and from the site would be made by car. Despite the limited number of trips generated by an additional dwelling, it would fail to minimise the need to travel by car. However, as noted in another appeal reference APP/Z1510/W/16/3148072, in Great Bardfield, paragraph 103 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Therefore, although the site does not lie within a defined settlement boundary, a higher proportion of journeys by car may be expected within such rural locations'.

The Inspectorate concluded that 'given the findings of the Inspector dealing with the neighbouring chalet bungalow, I find that the chalet bungalow under construction and the recently built bungalow to the south would have a comparable level of accessibility to services and facilities to the proposed development before me. As such, I am not persuaded that there should be any differentiation between the proposed development and neighbouring properties in this regard'. Whilst 'the development would be contrary to the spatial strategy set out in LP policy QL1 and paragraphs 15, 17, and 20 of the Framework with regard to the plan-led strategy for the pattern of development in an area, I consider that the policy conflict would not be of such significance as to warrant the dismissal of the appeal in this regard. I therefore find that the site would represent an appropriate location for a dwelling in relation to access to services and facilities'. This application therefore meets the social strand of sustainability.

Environmental:

Paragraph 193 of the National Planning Policy Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 196 of the National Planning Policy Framework (2018) states that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Policy EN23 of the Tendring Local Plan 2007 states that development that would adversely affect the setting of a Listed Building, including group value and long distance views will not be permitted. The sentiments of this policy are carried forward in Policy PPL9 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The environmental role is about contributing to, protecting and enhancing the natural built and historic environment. Although the site is located in a fairly rural area there are examples of dwellings nearby to the south, as well as the dwelling previously approved via appeal decisions reference APP/P1560/W/17/3180509.

However, to the south west of the application site is a Grade II Listed Building, known as 'Lambert Place' and as such, the applicant has submitted a Heritage Statement in order to justify that the proposal will either preserve or enhance the historic setting of this building.

In the recent appeal decision, appeal reference APP/P1560/W/18/3212705 for the erection of one dwelling on the application site, the Planning Inspectorate has stated within paragraph 12 that 'paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The harm to the significance of the listed building at Lamberts would be less than substantial, but still important given the proposed development's effect on the setting of the listed building. Paragraph 196 of the Framework provides for a balancing exercise to be undertaken, between less than substantial harm to the designated heritage asset, on the one hand, and the public benefits of the proposal, on the other'.

Within paragraph 15, the Inspectorate stated that 'I attribute very modest weight to the economic, social and environmental benefits to be provided by the proposed development. This would be insufficient to outweigh the harm identified to the significance of the listed building. I therefore conclude the proposal would fail to comply with national policy outlined in the Framework and referred to above'.

The Inspectorate concluded within paragraph 16 that 'the proposed development would harm the setting of the listed building at Lamberts. This would conflict with LP policy EN23, which states that development that would adversely affect the setting of a listed building, including long distance views, will not be permitted. It would be contrary to the Framework as it would not sustain the significance of the setting of listed buildings, and the public benefits would not outweigh the harm. In addition, Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 would not be met'.

The Historic Environment Team have been consulted on this application and have stated that the proposal affects the setting of Grade II listed Lambert Place (listing ID: 1112084). Part of the significance of the building is derived from its picturesque setting in a rural agrarian landscape, set back from the road.

The team stated that Policy EN23 of the Tendring Local Plan 2007 states that development that would adversely affect the setting of a Listed Building, including group value and long distance views will not be permitted. The sentiments of this policy are carried forward in Policy PPL9 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Previous overdevelopment of land adjacent to the listed property along Chapel Lane does not mean that further harm to the setting and therefore the historic significance of the property is permissible. The proposal will adversely affect the views from the surrounding countryside towards the substantial thatched roof of the listed building. The proposal will therefore lead to less than substantial harm being caused to the setting and therefore the significance of the designated heritage asset and paragraph 196 of the NPPF is therefore relevant here. Additionally, paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

It is important to relate this application and proposal to the previous application 18/00963/OUT. This previous scheme was also for an erection of a dwelling in the same approximate location when considering the heritage asset as the current application; 20/00074/FUL. This application was refused on heritage grounds, and subsequently dismissed at appeal.

As stated in response to the previous design, development in principle here would result in less than substantial harm to the designated heritage asset. The proposals would result in the continuation of the ribbon development enclosing the listed building. While the design is improved in the current iteration of the proposals, development in principle at this site would still result in harm to the designated heritage asset and therefore the Historic Environment Team are unable to support this application.

It is therefore considered that although the Council are unable to demonstrate a five year housing supply, the proposed development would result in less than substantial harm to the setting of the Listed Building and this cannot be outweighed by the public benefit of providing one dwelling.

2. Scale, Layout and Appearance

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Paragraphs 127 and 170 of the National Planning Policy Framework (2019) states that developments should function well and add to the overall quality of the area, be visually attractive as a result of good architecture, layout and appropriate and effective landscaping, be sympathetic to local character and history, including the surrounding built environment and landscape setting and planning policies and decisions should contribute to and enhance the natural and local environment by, inter alia, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.

The submitted plans demonstrate that the proposed dwelling is to be sited to the north of Lamberts with the access off of Chapel Lane.

The surrounding area of Chapel Lane is not well defined, with varying plot widths and a mixture of dwellings. Against this backdrop, the proposed dwelling will be relatively in-keeping with the existing street scene. The proposed features of the proposed dwelling are similar to those within Chapel Lane.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of three bedrooms or more should be a minimum of 100 square metres. The plans submitted show that this level of amenity space can comfortably be provided.

3. Impact upon neighbours

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).

The proposed dwelling will be visible to both The Paddocks and Lambert Place. The dwelling is located approximately located 3.7 metres away from the neighbouring boundary to The Paddocks which complies with Policy HG14 of the Tendring District Local Plan. There are two windows proposed to the first floor serving bedroom 3 and to reduce overlooking onto neighbouring amenities, a condition could be imposed to ensure that the windows are obscure glazed if the application was to be recommended for approval.

To the south of the proposed dwelling is Lamberts, the Grade II Listed building, the proposal maintains at least 1 metre to the neighbouring boundary and therefore it complies with Policy HG14 of the Tendring District Local Plan 2007. There are two first floor windows serving bedroom two and to reduce overlooking onto neighbouring amenities, a condition could be imposed to ensure that the windows are obscure glazed if the application was to be recommended for approval.

4. Highways

Essex Highways Authority have been consulted on this application and have stated that it is noted that an outline application for one dwelling was submitted in June 2018 (18/00963/OUT) for the same site. The application appears to provide adequate parking and turning for the proposed dwelling and is utilising an existing vehicle access. The Highway Authority have no objection subject to conditions relating to visibility splays, vehicular turning facility, no unbound materials, no discharge of surface water, boundary planting 1 metre back from the boundary and any visibility splay, parking space dimensions, cycle parking and storage of building materials. If the application

was to be recommended for approval, the cycle parking condition would not be imposed as it is considered that there is sufficient storage available to the rear of the dwelling. The storage of materials will be imposed as an informative only.

Furthermore, the Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. There is sufficient space to the front of the proposed dwelling to accommodate two parking spaces in line with Essex Parking Standards.

5. Tree Impacts

The application site is set to grass and the main body of the land does not contain any trees or other vegetation. However there are established hedgerow trees on the eastern boundary of the application site that have a positive impact on the character and appearance of the area. It appears that the trees on the eastern boundary may be on highway land adjacent to the application site.

Section 5 of the Design and Access Statement submitted in support of the application states that existing trees will be retained and that new planting will be carried out to enhance the appearance of the development.

In respect of the trees on the boundary with the highway it is not considered necessary for the applicant to submit a full tree survey and report. However in order to show that the development proposal could be implemented without causing harm to the protected trees the applicant should provide details of the extent of the Root Protection Areas (RPA's) of the boundary trees and the way that they would be physically protected for duration of the construction phase of any planning permission that may be granted. This information should be in accordance with BS5837 2012 Trees in relation to designs, demolition and construction. If the application was to be recommended for approval, a condition would be imposed to ensure that the details of the RPA's of the boundary trees and the measures to protect them for the duration of the construction phase are provided.

In terms of the use of the existing vehicular access any improvements to any part of the driveway within the Root Protection Area (RPA) of the retained trees should be constructed using 'no-dig' construction techniques which will be imposed as a condition. To help soften and enhance the appearance of the development, if the application was to be approved, a condition would be imposed to ensure that the details of soft landscaping are submitted to and approved by the Local Planning Authority. A soft landscaping condition could also be imposed to help soften and enhance the appearance of the development.

6. Financial contributions - RAMS

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

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

7. Habitat Regulations Assessment

Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 5.4 miles away from Colne Estuary SAC and RAMSAR and Essex Estuaries SAC.

New housing development within the Zol 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.

8. Other Considerations

Ardleigh Parish Council objects to this application and has stated that the Council had previously objected to an application on this site as it is not within the settlement development boundary and the TDC Local Plan (both old and emerging) is clear about protecting the areas outside settlements from development and therefore further housing should be refused.

Having reconsidered the new application Ardleigh Parish Council wishes to reiterate the objection and to further note the concerns about potential damage to the rural landscape and outlook in this area.

Further to the Parish's earlier comments, would draw attention to the previous application on this site 18/00963/OUT which we understood was refused on heritage grounds. The Council had objected to the original application. We would reiterate that objection and add the following general comments. That there has already been significant recent development within our Parish including 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 and/or detached dwellings in Ardleigh. 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.

The concerns raised above have been addressed within the report.

No letters of representation have been received.

6. **Recommendation**

Refusal – Full

7. Reasons for Refusal

- 1 Paragraph 127 of the National Planning Policy Framework 2019 (NPPF) requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes onto 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, Paragraphs 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.

Additionally, Saved Policy EN23 of the Tendring District Local Plan (2007) and Policy PPL9 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) state that proposals for development that would adversely affect the setting of a listed building including group value and long distance views will not be permitted.

The proposal affects the setting of Grade II listed Lambert Place (listing ID: 1112084), with part of the significance of the building being derived from its picturesque setting in a rural agrarian landscape, set back from the road. The proposal will adversely affect the views from the surrounding countryside towards the substantial thatched roof of the listed building and would result in the continuation of the ribbon development enclosing the listed building. The proposal would therefore result in less than substantial harm being caused to the setting of the Listed Building.

Paragraph 196 of the National Planning Policy Framework (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. Additionally, paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It is therefore considered that although the Council are unable to demonstrate a five year housing supply, the proposed development would result in less than substantial harm to the setting of the Listed Building and this cannot be outweighed by the public benefit of providing one dwelling.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

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