

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	04/09/2020
Planning Development Manager authorisation:	SCE	04.09.2020
Admin checks / despatch completed	CC	08.09.2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CD	08.09.2020

Application: 20/00599/FUL **Town / Parish:** Weeley Parish Council

Applicant: Bridgebank Homes Ltd

Address: Land adjacent 43 Mill Lane Weeley Heath

Development: Construction of 7no. three bedroom detached bungalows with associated garages.

1. Town / Parish Council

Weeley Parish Council
17.06.2020

Weeley Parish Council objected to the 2016 application for 6 bungalows on this site. WPC continues to object to development of this site which is outside the village envelope. It is now demonstrably clear that the housing numbers for Tendring have been achieved and there can be no reason to approve this application.

2. Consultation Responses

ECC Highways Dept
23.06.2020

Please note that at present the highway authority is not making site visits due to the COVID-19 restrictions and the observations below are based on submitted material, google earth photo dated April 2009 and a previous visit to the site. It is note that there have been two previous planning applications for this site; 16/01165/OUT and 19/01249/DETAIL. The location is situated within the existing 30-mph speed limit for Mill Lane and provides adequate parking and turning for the development, 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. As per drawing no. 692/1 and prior to occupation of the development, each road junction / access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

2. Prior to the first occupation of the development, each access junction with Mill Lane shall be constructed at right angles to the highway boundary and to the existing carriageway as shown in principle on the Block Plan, drawing no. 692/1 to a carriageway width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Highway Boundary and provided with an appropriate dropped kerb crossing of the footway/verge.

Reason: To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety and in accordance with Policy DM1 and DM6.

3. Prior to first occupation of the development a size 5 vehicular turning facilities shall be constructed for each private drive, 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.

4. No unbound material shall be used in the surface treatment of the vehicular access throughout.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

5. 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.

6. Prior to first occupation of the development vehicle parking shall be provided in accordance with the EPOA Parking Standards as shown in principle on Block Plan, drawing no. 692/1 constructed ready for use. The vehicle parking area and associated turning area shall be retained in the agreed form at all times.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

7. As shown in principle on Block Plan, drawing no. 692/1 proposed garage elevations and floor plans, all single garages should have a minimum internal measurement of 7m x 3m.

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8.

8. Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

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

9. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

10. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:

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

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.

11. Prior to occupation of the development, an informal vehicle passing place shall be provided within Mill Lane opposite the development with dimensions:

- 1.2 metres wide x 8 metres long

Details and location to be agreed in writing with the Local Planning Authority.

Reason: To ensure that vehicles can pass clear of the limits of the highway, in the interests 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: 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.

2: 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

3: 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.

3. Planning History

16/01165/OUT	The construction of 6 No dwellings with associated garages and parking.	Approved	07.12.2016
17/00522/AGRIC	New detached agricultural barn for the secure storage of mainly machinery.	Withdrawn	21.04.2017
17/00986/AGRIC	New detached agricultural barn.	Determination	23.06.2017
19/01249/DETAIL	Construction of 6 no. dwellings with associated garages and parking.	Approved	25.10.2019

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

HG1 Housing Provision

HG6 Dwelling Size and Type

HG9 Private Amenity Space

HG14 Side Isolation

EN1 Landscape Character

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN6 Biodiversity

COM6 Provision of Recreational Open Space for New Residential Development

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL3 Sustainable Design

LP1 Housing Supply

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

HP5 Open Space, Sports & Recreation Facilities

CP2 Improving the Transport Network

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 a rectangular area of land lying to the south west side of Mill Lane between Bentley Road and Rectory Road within the settlement of Weeley Heath. The site measures approximately 0.49 hectares in size; it is relatively flat and is currently in agricultural use.

The application site lies outside of the Weeley Heath Settlement Development Boundary as defined within the adopted Tendring District Local Plan (2007) and abuts the extended settlement development boundary for Weeley Heath as defined within the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Description of Proposal

The application follows a previous approval for the redevelopment of the site for 6 dwellings accessed via the existing single access under planning application reference 16/01165/OUT and 19/01249/DETAIL.

This current application seeks full planning permission for the erection of 7 dwellings served by 2 access points (1 existing) together with associated parking, turning and private amenity space. The central field access is to remain between the new dwellings.

Assessment

The main considerations are;

- Principle of Development;
- Scale, Layout and Appearance;
- Residential Amenities;
- Trees and Landscaping;
- Highway Considerations and Parking Provision;
- Biodiversity and Protected Species;
- Financial Contribution – RAMS;
- Financial Contribution – Open Space;
- Representations; and,
- Other Matters.

Principle of Development

The principle of residential development on this site of 6 dwellings has been established by the granting of outline planning application 16/01165/OUT by the Planning Committee on 07.12.2016 and the approved of the reserved matters application 19/01249/DETAIL on 25.10.2019. This permission remains extant and could be implemented at any time.

This fall-back position of 6 dwellings is therefore a material consideration of significant weight in the determination of this new, full application for 7 dwellings.

For completeness, the principle of residential development can be assessed as follows.

The site lies outside of any Settlement Development Boundary as defined within both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.

The National Planning Policy Framework 2019 (NPPF) requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires

applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

At the time of this report, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination in Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

Whilst it is recognised that there would be conflict with Saved Policy QL1 (as recognised by the Inspector) and Emerging Policy SPL1 in terms of the site being sited outside the settlement development boundary, as stated above, in the context of the 5 year housing land supply paragraph 11 d) of the NPPF requires applications for housing development to be assessed on their merits, whether sites are allocated for development in the Local Plan or not and it is important to consider whether any circumstances outweigh this conflict.

In this instance, it is also necessary to consider the location of the site abutting the extended SDB for the area and the extant fall-back position both of which hold significant weight.

- Assessment of Sustainable Development

Development should be plan led unless material considerations indicate otherwise. However, in line with Paragraph 8 of the National Planning Policy Framework (2019), achieving sustainable development means meeting an economic objective, a social objective and an environmental objective. These are assessed below.

- Economic

It is considered 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

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.

Weeley/Weeley Heath is identified as a village within Policy QL1 of the Tendring District Local Plan (2007) and as a Smaller Rural Settlement within the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft. For these settlements it is recognised that some growth can be supported.

In terms of the social role, the site is within reasonable proximity of the local amenities within Weeley village that include a village convenience store, post office and bakery. The site is also within walking and cycling distance of the local primary school and recreation ground. Weeley / Weeley Heath is also on a bus route with a bus stop within walking distance of the site, situated in Clacton Road to the north east with services to Clacton, Frinton and Colchester. In addition Weeley Railway Station is also within walking distance of the site which connects to Frinton and Walton, Clacton, Colchester and through to London. These facilities go some way to illustrate the sustainability credentials for

the village. Although there is no footpath along Mill Lane both Rectory Road and Bentley Road are served by footpath that lead into Weeley.

Paragraph 103 of the Framework recognises that opportunities to maximise sustainable transport will vary from urban areas to rural areas. In the location of the application site it is considered that some reliance on car use is acceptable, in combination with forms of sustainable travel such as on foot, by cycle, by bus and train which would be reasonably practicable in this case.

On balance, the location of the site is considered to perform reasonably well under the social objective of sustainable development and a refusal on this ground is not justified.

- Environmental

It is acknowledged that, in terms of settlement shape and form, development in this location is unlikely to have a significantly detrimental impact the site is located immediately adjacent to the settlement development boundary as defined in the saved Tendring District Local Plan (2007) and will infill existing development between Mill Lane.

The environmental role is about contributing to protecting and enhancing the natural built and historic environment which is considered below under the heading Character and Appearance.

Scale, Layout and Appearance

The site is located in-between existing road frontage residential development that runs along this side of Mill Lane with existing dwellings on the opposite side to the south-east with development at the Willow Farm site nearing completion. There is a mixture of single storey, two storey and chalet style dwellings in the vicinity with the most immediate neighbours at either end of the site being 2 storey to the south and a chalet style to the north.

The proposed development of 7 no. bungalows fronting onto Mill Lane in a linear arrangement therefore represents an appropriate response to the pattern of development in the vicinity. The presence of built form at either end of the site and residential development on the opposite side of Mill Lane ensures that the infill of this site would not adversely impact upon the character of this part of Weeley Heath. The single storey scale of the development minimises the visual impact within the immediate locality as well as ensuring that longer distance views of the development from the adjacent open fields would be minimised. This is further softened by the mature hedgerow along the site frontage which is to be retained.

The development is to be served by 2 access points; one being the existing field access which will serve Plots 1 to 4 and a new second access point serving Plots 5 to 7 with internal access points, private drive and turning areas set behind the existing front boundary hedgerow. The retention of the hedgerow and shared access points reduce the visual impact of the development and respect the semi-rural character of the locality.

The layout of the development allows for well-spaced properties retaining 1 metre to their respective boundaries in accordance with the standards set out within saved Policy HG14 of the adopted Plan; being well set back from the highway and providing rear gardens in excess of the minimum standards required by saved Policy HG9 of the adopted Local Plan. There is sufficient variation in the house type, detailed design and materials to result in a visually varied but harmonious street. The variation in attached and detached garages and the set-back siting of the detached garages also contributes to the variation and spaciousness of the development.

The plans detail the proposed fencing throughout the site comprising 0.9m and 1.2m high post and rail fencing to the frontages and part side boundaries with 1.8m close boarded fencing to the rear and between the plots. This minimises the visual impact with the additional landscaping and tree planting further softening the impact of the development.

Overall the development is considered to represent an acceptable scale, layout and appearance that will not appear harmful to visual amenity or the character and appearance of the street scene. Therefore taking into consideration the residential character of the surrounding area and the vegetation present on and around the site, it is considered that the proposed development would have a neutral impact upon the environment and would as a result satisfy the environmental strand of sustainability as defined within the NPPF.

Residential Amenities

Paragraph 127 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. Furthermore, Saved Policy HG14 requires a minimum of 1 metre side isolation between dwellings and saved Policy HG9 sets out the private amenity space requirements for new dwellings.

The siting and plot arrangement for each dwelling retains 1 metre side isolation in accordance with Policy HG14 of the adopted Local Plan. For a 3 bedroom dwelling a minimum of 100 square metres is required. Each dwelling will be served by a garden area that exceeds these standards. Furthermore each property is served by a garage and 2 parking spaces that exceeds the 2 space requirement set out within current parking standards.

Having regard to the spacing of the properties, the distance retained to existing dwellings, the single storey scale and hipped roof design of the properties and the compliance with amenity and parking standards, the impact of the development on the residential amenities of existing and future occupants is considered acceptable.

Trees and Landscaping

The main body of the application site is open grassland. The boundary with Mill Lane is demarcated by an established hedgerow comprising of primarily Hawthorn and Blackthorn. Within the hedgerow are several individual Oak trees that make a strong positive contribution to the character and appearance of the locality.

In order to show the extent to which the trees and hedgerows on the application site are a constraint on the development of the land, and to show how retained trees will be physically protected for the construction phase of the development the applicant has provided a Tree Survey and Report.

The information provided adequately demonstrates that the development proposal can be implemented without causing harm to retained trees and, apart from the creation of the new vehicular access, no harm will be caused to the retained boundary hedge.

The report is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations.

In terms of soft landscaping the details provided by the applicant are sufficient to ensure that a good level of screening along with a general enhancement of the site will be achieved by the implementation of the planting proposals.

Highway Considerations and Parking Provision

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 these policies are carried forward within draft Policy SPL3 and draft Policy CP1 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 development.

Essex County Council Highway Authority has been consulted on the application and raise no objection to the development. The Highway Authority are content that the proposal will not create a major highway safety or efficiency issue subject to conditions which will be imposed where necessary. The dwellings will be served by 2 access points (one existing) with driveways leading to their set back garages and parking spaces. Both accesses will be served by appropriate visibility splays. The layout provides parking and turning in excess of current policy standards ensuring that vehicles will always exit the site in a forward gear.

Biodiversity and Protected Species

A Preliminary Ecological Appraisal accompanied the previous application. Confirmation has been received from the agent (following an up to date walkover of the site by the ecologist) that the condition of the land has not changed and the previous findings and recommendations remain relevant. Which can be summarised as follows;

A Phase 1 Ecology Appraisal and mitigation strategy report have been submitted together with the required reptile survey and bat detector survey. The findings of these reports are summarised below.

- Reptile Survey

A single adult Common Lizard was noted on site during one survey visit. No other reptile species were recorded during the survey. Based on the onsite peak adult count of one, the population of reptiles on site is considered to be a very low transient population. The only reptile found on site was a single Common Lizard noted along the north eastern boundary hedgerow. It is considered likely that this is a transient population using the hedgerow as a corridor.

The hedgerow along the western boundary is being retained in the most part ensuring the majority of connectivity along the boundary of the field is maintained. It is considered unlikely that the removal of small sections along the northern boundary hedgerow to facilitate access will have a negative effect on the population status of reptiles in the local area.

Providing the grassland is maintained to a low sward height, this will ensure that the site does not become more suitable for Common Lizard prior to development commencing and will reduce the risk of direct harm during pre-construction ground works.

- Bat Detector Survey

Activity from Common Pipistrelle and Soprano Pipistrelle was recorded throughout the manual and static surveys, suggesting that the northern and southern hedgerows are being used to forage, as well as commute. Bat foraging and commuting was also recorded off site, along the southern field boundary hedgerow and around the residential property to the east.

Apart from a small access point in the northern boundary hedgerow, the remainder of the northern hedgerow and all mature trees will be retained in the development.

Providing the lighting recommendations within Section 7 of this report are adhered to, foraging and commuting bats will not be a material consideration for this site.

- Biodiversity enhancements should include;

A minimum of four Bat boxes should be placed on retained mature trees on site. Alternatively bat bricks could be incorporated into the design of the buildings onsite.

Any hedgerow or trees to be removed should be replaced elsewhere on site, with shrub and tree species considered beneficial to wildlife.

The necessary conditions will be imposed to ensure compliance with the requirements of the report and recommendations.

Financial Contribution - Recreational Disturbance

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

The application scheme proposes a residential development on a site that lies within the Zone of Influence (Zol) being approximately 4000 metres from the Colne Estuary SPA and Ramsar sites and Hamford Water SPA, SAC and Ramsar sites. New housing development within the Zol would be likely to increase the number of recreational visitors to the Colne Estuary and Hamford Water 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

Policy COM6 of the adopted Tendring District Local Plan 2007 states that 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.

There is currently a deficit of -2.18 hectares of equipped play and formal open space in Weeley. Due to the limited provision in Weeley, in terms of both play and formal open space it would be necessary to increase provision in the area should further development take place.

Due to the significant lack of facilities in Weeley if it felt that a contribution is justified and relevant to this planning application. Any contribution would be used to provide additional facilities at the play area in Clacton Road, Weeley

A completed unilateral undertaking has been received securing this financial obligation in accordance with the above-mentioned policies

Representations

Weeley Parish Council object to development on the following grounds;

- Site is outside the village envelope.
- Housing numbers for Tendring have been achieved.

2 individual letters of objection have been received. The concerns raised can be summarised below;

- Unsuitable, narrow lane.
- Unacceptable increase in traffic.
- Outside settlement boundary for the area.

In response to the above objections;

The principle of development has been addressed in the main report above. In the absence of any objection from ECC Highways, a refusal of the proposed 7 dwellings on highway grounds could not be justified. Furthermore, the site has consent for 6 dwellings and the increase to 7 units is not materially different.

Other Matters

Comments have been received from the Council's Environmental Protection Team in relation to contaminated land concerns requesting a Phase 1 - Contaminated Land Desktop Study to be submitted. However, this was not raised as part of the previous application under which development could be commenced at any time. Therefore, it would be unreasonable to impose a condition on this application. Nonetheless, the site is currently agricultural land and therefore unlikely to raise any contamination issues during construction.

Conclusion

The application delivers a sustainable development in a location supported by national and local plan policies. In the absence of any material harm resulting from the development in relation to design, impact, amenity or highway safety, the application is recommended for approval subject to conditions.

6. Recommendation

Approval - Full

7. Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

692/1	Proposed Block Plan (including boundary/fencing details)
692/2	Plot 1 - Proposed Floor Plan and Elevation
692/3	Plots 2 And 5 - Proposed Floor Plan and Elevations
692/4	Plot 3 - Proposed Floor Plan and Elevations
692/5	Plot 4 - Proposed Floor Plan and Elevations
692/6	Plot 6 - Proposed Floor Plan and Elevations
692/7	Plot 7 - Proposed Floor Plan and Elevations
692/8	Garages - Proposed Floor Plan and Elevations

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

- 3 The hereby approved development shall take place fully in accordance with the tree/hedgerow protection measures set out in the submitted Arboricultural Impact Assessment Reference No. TPSarb6180616 and the accompanying Tree Protection Plan together with the mitigation measures as set out within the Preliminary Ecological Appraisal Report Reference Number: 1845,EC/PEA/RF,KML/15-07-16/V1, Bat Detector Survey Report Reference Number: 1926,EC/BatAct/ZK,KL/08-09-16/V1 and Reptile Survey And Mitigation Strategy Report Reference Number: 1926,EC/REP/TC,KL/08-09-16/ V1.

Reason - To preserve and enhance the biodiversity of the site.

- 4 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details drawing number 692/1 Proposed Block Plan shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason – To ensure the implementation and maintenance of the landscaping scheme in the interests of visual amenity and the character of the area.

- 5 Prior to occupation of the dwellings, the communal bin/refuse collection points within the site shall be provided in accordance with the approved details shown on drawing number 692/1 and thereafter be retained in the approved form.

Reason - To minimise the time spent by refuse collection vehicles parked within the highway so as to avoid congestion and inconvenience to users of the highway.

- 6 The removal of all vegetation shall only be carried out outside of the bird nesting season (March to August inclusive).

Reason - To ensure the protection of birds potentially nesting on site.

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

Reason - In the interests of sustainable development and to ensure that run-off water is avoided to minimise the risk of surface water flooding.

- 8 No means of external lighting shall be installed until details of an illumination scheme have been submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details.

Reason - In order to allow a more detailed technical consideration of the lighting at the site, as there is insufficient information submitted within the application to ensure adequate safeguarding of the amenity of nearby properties, protected species and prevent the undesirable, disruptive and disturbing effects of light pollution.

- 9 No above ground works shall be commenced until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason – In the interests of visual amenity and the quality of the development as insufficient details have been provided with the application.

- 10 As per drawing no. 692/1 and prior to occupation of the development, each road junction / access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason - To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety.

- 11 Prior to the first occupation of the development, each access junction with Mill Lane shall be constructed at right angles to the highway boundary and to the existing carriageway as shown in principle on the Block Plan, drawing no. 692/1 to a carriageway width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Highway Boundary and provided with an appropriate dropped kerb crossing of the footway/verge.

Reason - To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway.

- 12 Prior to first occupation of the development a size 5 vehicular turning facilities shall be constructed for each private drive, 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.

- 13 No unbound material shall be used in the surface treatment of the vehicular access throughout.

Reason - To avoid displacement of loose material onto the highway in the interests of highway safety.

- 14 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.

- 15 Prior to first occupation of the development the vehicle parking shown on approved Block Plan drawing no. 692/1 shall be constructed and made available ready for use. The vehicle parking area and associated turning area shall be retained in the agreed form at all times.

Reason - To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided.

- 16 No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period.

The Construction Method Statement shall provide for:

- safe access to/from the site;
- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- wheel washing facilities;
- measures to control the emission of dust and dirt during demolition and construction;

- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- details of hours of deliveries relating to the demolition and construction of the development;
- details of hours of site clearance and construction;
- a scheme to control noise and vibration during the demolition and construction phase, including details of any piling operations.

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

Reason - To ensure that on-street parking of construction vehicles in the adjoining streets does not occur, to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and to ensure working conditions are sympathetic to residential amenities.

- 17 Prior to occupation of the development, an informal vehicle passing place shall be provided within Mill Lane opposite the development with dimensions (within the area of land under the control of Essex County Council Highway Authority as shown on drawing reference 'Enquiry No. 2667553'):

- 1.2 metres wide x 8 metres long

Details and location to be agreed in writing with the Local Planning Authority.

Reason - To ensure that vehicles can pass clear of the limits of the highway, in the interests of highway safety.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Legal Agreement Informative - Recreational Impact Mitigation

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

Legal Agreement Informative - Open Space/Play Space Contribution

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Public Open Space financial contribution in accordance with Policy COM6 of the adopted Tendring District Local Plan (2007) and Policy HP5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Waste Informative

Bin collection points to be of adequate size to accommodate 180L wheeled bin, 55 Ltr recycling boxes and 23Ltr food caddy per household. Private drive to be of hard standing construction suitable for the movement of wheeled bins.

Environmental Protection Informatives

The Construction Method Statement required by the above condition shall include/allow the following;

- Noise Control

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- 2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00(except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.
- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

- Emission Control

- 1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- 2) No materials produced as a result of the site development or clearance shall be burned on site.
- 3) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- 4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Adherence to the above will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974)

Highways Informatives

- 1: 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.

2: 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

3: 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.