

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	14/10/2020
Planning Development Manager authorisation:	TF	14/10/2020
Admin checks / despatch completed	CC	14/10/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	BB	14/10/2020

**Application:** 20/00887/FUL **Town / Parish:** Ardleigh Parish Council

**Applicant:** Ms J Webster

**Address:** Three Elms Harts Lane Ardleigh

**Development:** Replacement of a former agricultural building with two x 3 bed bungalows (in lieu of Prior Approval for two x 3 bed dwellings subject of application 17/01710/COUNOT).

### 1. Town / Parish Council

Ardleigh Parish Council  
08.09.2020

Strongly object to this application which is located some 3km outside the settlement development boundary on an unlit single track lane in a rural agricultural area.

The site is unsuitable for new housing, even if additional housing were needed, which is in not.

Ardleigh Parish Council is working on a Neighbourhood Plan for our parish. We have liaised with the planning authority to determine the housing need for our parish in the remainder of the plan period up to 2033. The overall increase required across Tendring is 14%. It has been confirmed that all of the housing need (and more) for Ardleigh will be met by schemes with existing permission.

Another application on Harts Lane was recently rejected at appeal because of its negative affect upon the character of the area and that is was not consistent with policies relating to the locations of housing, including with regard to accessibility of local services and facilities. We believe that the same objections would apply to this proposal.

Finally we would reiterate our objections to the last application on this site in December 2019, namely that the Council consider that this would constitute over-development in what is a rural area. There would be concerns about precedent- back filling a narrow space behind an existing property, there would be pressure on local services and additional traffic, and the Council does not believe that there is a need for this number or type of housing in this location (which, as previously stated, falls well outside the settlement development boundary).

### 2. Consultation Responses

ECC Highways Dept  
09.09.2020

The Highway Authority raises an objection to the above application for the following reasons:

As far as can be determined from the submitted plans the Applicant does not appear to own or control sufficient land to provide the

ECC Highways Dept  
13.10.2020

proposed access with adequate vehicular visibility splays which would lead to the intensification of use of a substandard access contrary to the recommended minimum standards for highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

I note that fire access is required by Building Control and Access and in the absence of any tracking drawings to confirm that the existing vehicular access can accommodate a standard fire appliance turning in and out of the site I would suggest that the access is reconstructed as detailed below together with the other listed suggested conditions:

Prior to the first occupation of the development, the proposed vehicular access shall be reconstructed to provide 10.0m. radius kerbs on the eastern side of the access returned to an access road carriageway width of 6.0m. for the first 12m within the site then tapering down one sided to a carriageway width of no less than 3.7m. Reason: To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety and in accordance with Policy DM 1 and 6 of the Highway Authority's Development Management Policies February 2011.

No unbound materials shall be used in the surface treatment of the proposed reconstructed vehicular access within 6m of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Prior to the proposed access being brought into use the applicant shall provide a 4.0m wide parallel band visibility splay across the eastern sites frontage to Harts Lane which shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Prior to first occupation of the proposed development, a (communal) recycling/bin/refuse collection point shall be provided within 15m of the highway boundary or adjacent to the highway boundary and additionally clear of all visibility splays at accesses and retained thereafter.

Reason: To minimise the length of time a refuse vehicle is required to wait within and cause obstruction of the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Any gates erected at the vehicular access shall be inward opening only and shall be recessed a minimum of 6m. from the highway boundary.

Reason: To ensure that vehicles using the access may stand clear of the carriageway whilst those gates are being opened/closed, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.

Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway and to preserve the integrity of the highway, in the interests of highway safety in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

The development shall not be occupied until such time as a car parking and turning area has been provided in accord with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

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

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

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO1 – Development Management  
Essex Highways Ardleigh Depot,  
Harwich Road,

Ardleigh,  
Colchester,  
Essex  
CO7 7LT

Note: The 4.0m wide easterly parallel band visibility splay would almost mirror the wide verge fronting Harts Lodge adjacent this site. The reconstructed vehicular access would be necessary to accommodate fire appliance access as suggested by BC & A as the proposed dwellings are about 70m from the highway.

These suggested Conditions should not suggest nor infer that the Highway Authority has withdrawn or changed the previously submitted recommendation for REFUSAL of application 20/00887/FUL.

### **3. Planning History**

15/30228/PREAPP	Erection of 4 detached dwellings with garaging.	Refused	19.01.2016
17/01710/COUNOT	Change of use from agricultural building to residential dwellinghouse.	Determination	27.11.2017
19/01735/OUT	Redevelopment of site for 4 no single storey residential dwellings (considering access only).	Refused	08.01.2020
20/00551/COUNOT	Change of use from agricultural building to two dwelling units.	Determination	25.06.2020

### **4. Relevant Policies / Government Guidance**

*NPPF National Planning Policy Framework February 2019*

*National Planning Practice Guidance*

*Tendring District Local Plan 2007*

QL1	Spatial Strategy
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
HG1	Housing Provision
HG6	Dwelling Size and Type
HG9	Private Amenity Space
COM6	Provision of Recreational Open Space for New Residential Development
EN1	Landscape Character
EN6	Biodiversity

EN6A	Protected Species
EN11A	Protection of International Sites European Sites and RAMSAR Sites
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
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
HP5	Open Space, Sports & Recreation Facilities
CP1	Sustainable Transport and Accessibility

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)**

### Description of Proposal

The application relates to the property known as 'Three Elms' located on the northern side of Harts Lane within the Parish of Ardleigh. The application site itself encompasses the access and driveway and an area of land to the rear of 'Three Elms' amounting to a site area of approximately 0.16 hectares.

The site itself contains a number of existing buildings formerly used as a poultry farm on the western side as well as a large expanse of hardstanding to the north of the site. This application relates specifically to the buildings in the south-eastern corner of the site which has the benefit of a Class Q permission for two residential units.

There is dense belt of vegetation on the western boundary and a boundary hedgerow to the north. Land to the east of the application site is set out as paddocks. There are irregularly spaced and sited residential dwellings opposite and to both sides of the application site with open countryside to the north.

The area is rural in character and lies outside the defined settlement limits for the area. Application TEN/184/69 was the original permission for the bungalow with an agricultural occupancy condition attached that was later removed under approved planning application 10/00291/FUL.

### Description of Proposal

This application seeks full planning permission for the replacement of a former agricultural building and adjacent store with 2 no. 3 bed detached bungalows.

This application would be an alternative development to the Prior Approval for 2 no. 3 bed dwellings subject of application 17/01710/COUNOT. This approval is subject to the conversion of the existing building which has a gross floor area of 330m<sup>2</sup> and a height of 3m. Two further buildings were also shown to be demolished with a gross floor area of approximately 120m<sup>2</sup>. The Council did not express any concern on the grounds for consideration of the notification application, namely access, flooding, design, noise or contamination. This scheme can be referred to as the 'fall back' scheme.

The current application is for the replacement of the two approved dwellings and outbuildings with two new bungalows in the same location. Each of the new properties would have a gross floor area of 140m<sup>2</sup> and a maximum height of 5.5m, resulting in a total floor area of 280m<sup>2</sup>.

### Assessment

The main considerations in this instance are;

- Planning and Appeal History;
- Principle of Development;
- Impact on Character and Appearance;
- Residential Amenities;
- Access and Parking;
- Trees and Landscaping;
- Biodiversity and Protected Species;
- Financial Contributions - Recreational Disturbance;
- Financial Contributions - Open /Play Space; and,
- Representations.

### Planning and Appeal History

#### *- Site Specific History*

In October 2017, a formal notification was submitted pursuant to Part Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the conversion of an agricultural building on the site into two x 3 bed dwellings. The Council accepted by letter dated 27th November 2017 that Prior Approval was not required (reference 17/01710/COUNOT).

#### *- Appeal History*

Of particular relevance in this instance is appeal references APP/A1530/W/16/3144635 and APP/A1530/W/16/3144643 for Chesnut Farm, Abberton Road, Layer De La Haye.

These appeals deal with the replacement of buildings where the fall-back position relates to a Prior Notification Application under Part Q of the Town & Country Planning (General Permitted development) (England) Order 2015.

The Inspector accepted that the fall-back position is a material planning consideration and concluded that the proposal would have a very similar effect to the prior approval scheme in relation to its sustainability of location and access to local services and facilities (the occupants would be reliant on private car); would not increase the number of dwellings over the prior approval scheme and would not result in an increase in new isolated homes in the countryside. The Inspector supported the replacement of three poultry sheds with three dwellings with the same floor area subject to conditions (in order to protect the character and appearance of the rural character of the area).

A number of further appeal decisions dealing with the same matter consistently highlight the main issue as the 'the effect of the proposal on the character and appearance of the area.'

As the development proposes 2 detached dwellings of a different position and height to that allowed under the fall-back position, appeal reference APP/F2415/W/18/3194060 for 'demolition of residential dwelling (existing barn with Class Q Permitted Development Rights) and the erection of a new two storey residential dwelling in its place, including double garage' is also of particular relevance.

Under this appeal the Inspector states that, 'though similar in footprint, the proposed house would be significantly larger in scale than the existing and therefore also larger than the dwelling which could result from its conversion which already has consent'. The Inspector goes on to conclude that '*...in terms of its size, it would not appear incongruous in its context...*', '*...some vegetative screening on the front boundary would assist in reducing the prominence of the development when seen from the road*', and '*Overall, it would not appear urbanising in its context and would correspond well to the character of the area*'.

### Principle of Development

Having regard to the above and the approval of 17/01710/COUNOT the principle of 2 new dwellings to replace existing buildings subject of a Class Q approval is accepted. The principle of new dwellings of an increased height and new siting to replace a building subject of a Class Q approval is also accepted.

### Impact on Character and Appearance

Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.

The proposed dwellings would replace existing structures in the same location. The 2 detached dwellings would result in a net reduction of some 170m<sup>2</sup> gross floor area of buildings with no net increase in the number of dwellings.

While the new buildings would have a greater overall height than the existing poultry buildings, this is due to the pitched roof design. However, the roof design is almost fully hipped with a modest eaves height of just over 2.5 metres. The bulk of the roof cannot be considered excessive.

The proposed dwellings are sited over 60 metres back from the highway, located behind the existing bungalow at 'Three Elms' with existing dwellings either side. The dwellings will occupy an area already covered with buildings/structures. The height and scale of the proposed dwellings are comparable to the bungalows immediately adjacent.

The existing dwelling and front boundary hedgerows will largely screen the view of the development from Harts Lane, while the new dwellings will be seen in the context of the small group of dwellings, including the property at Harts Lodge to the west, and other buildings on the site. In this particular instance it is considered that the location of the dwellings will have no greater impact than the existing barn.

The detailed design of the proposed dwellings is a little unfortunate as there is no reference to the rural character of the locality or character of the former agricultural buildings. However, this cannot be considered significantly harmful in this instance given the context of the site in close proximity to other dwellings. A similar development on a more isolated, open site is likely to be unacceptable.

Insufficient information has been provided with the application in relation to the proposed materials and finishes. This will therefore be added a condition.

Having regard to the afore-mentioned appeals and national and local plan policies, in terms of its size, the proposal will not appear incongruous in its context and will not result in a harmful impact on the character and appearance of the area or landscape.

### Residential Amenities

Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Saved Policy QL10 of the adopted Tendring District Local Plan (2007) requires that all new development should meet functional requirements. In particular the policy states that planning permission will only be granted if; buildings and structures are orientated to ensure adequate daylight, outlook and privacy and provision is made for functional needs including private amenity space. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives. Additionally, Saved Policy HG9 sets out the minimum standards for private amenity space.

The site and proposed dwellings are sited a sufficient distance from the few nearby neighbouring properties and will not result in any loss of sunlight or daylight. The separate distance together with the single storey height of the proposed dwellings means that no loss of privacy or overlooking will occur to neighbouring properties. The development will not result in any material harm to residential amenities.

The dwellings will be served by garden areas in excess of the 100 square metre minimum standards as set out within policy HG9 of the adopted Local Plan.

A condition removing permitted development rights is considered necessary in this instance due to the potential impact and harm from extensions and outbuildings to the character and appearance of the landscape and rural character. This is also considered reasonable given the fact that the proposal effectively represents an alternative permission to that approved under the Prior Notification application which does not benefit from permitted development right.

### Access and Parking

Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Furthermore, the Essex County Council Parking Standards 2009 set out the requirements for residential development.

The development will be served by an existing access with 2 parking spaces provided for each dwelling. The access serves the existing dwellings and former agricultural buildings to the rear.

Officers note that the site is subject of recently refused applications 19/01735/OUT and 20/00551/COUNOT both of which were refused on highway grounds.

Although Essex County Council raised an objection to this current application due to insufficient visibility splays, the fall-back position for the same number of dwellings means that it would be wholly unreasonable to refuse this application on highway safety grounds.

Essex County Council have provided recommended conditions having regard to the fall-back position which will be imposed where reasonable and necessary.

### Trees and Landscaping

There are no trees or significant vegetation on the application site. The small-scale development will not result in any adverse impact on landscape character.

There is little to no soft landscaping potential on the site and a landscaping scheme is not considered necessary in this instance.

### Biodiversity and Protected Species

Given the character and nature of the structures to be removed, in order to protect nesting or foraging birds and activity from bats, appropriately worded conditions will be added to control the timing of demolition and clearance in the interests of biodiversity and protected species.

### Financial Contributions - Recreational Disturbance

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

The application scheme proposes a residential on a site that lies within the Zone of Influence (Zoi) being approximately 4500 metres from the Stour and Orwell Estuaries Ramsar. New housing development within the Zoi would be likely to increase the number of recreational visitors to the Stour and Orwell Estuaries and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A completed unilateral undertaking has been provided to secure this legal obligation and to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

### Financial Contribution - Open Space and Play Space

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built". These sentiments are carried forward within emerging Policy HP5.

There is currently a deficit of -1.70 hectares of equipped play/open space in Ardleigh.

Due to the size and location of the development it is not thought that there will be an impact on the current deficit of play provision. Therefore no contribution is being requested on this occasion.

### Representations

Ardleigh Parish Council strongly object to the application. Their objections can be summarised and addressed as follows (officer response in italics);

- Located some 3km outside the settlement development boundary.
- Located on an unlit single track lane in a rural agricultural area.
- Site is unsuitable for new housing.
- Housing need for the area can be met by existing permissions.
- Unsustainable location supported at appeal.
- Would constitute over-development in what is a rural area.
- Sets a harmful precedent.

- There would be pressure on local services and additional traffic.
- No need for housing of this nature in this location.

4 individual letters have been received raising objections and representations to the development which can be summarised and addressed as follows;

- Out of character.
- Fails to meet the building line.
- Sets a harmful precedent for further development.
- No agricultural use or activity here and the statement is inaccurate.

*The underlying purpose of Class Q is to convert agricultural buildings and increase rural housing without building on the countryside. The site is subject of an approval under reference 17/01710/COUNOT. The agricultural use/history cannot be disputed given the approval based upon information accompanying the application. The onus is on the applicant/agent to provide correct information. 2 dwellings can be provided here under that permission and traffic movements associated would be the same as this proposal. Total demolition and replacement of buildings falls outside of Class Q. Officers recognise that the approval of this permission could be considered at odds with the purpose and aims of Class Q and also be considered contrary to the principles of sustainable development set out within national and local plan policies. However, the approval of this application will not set a harmful precedent due to the special circumstances under which the application is being assessed due to the fall-back position which could be implemented at any time. Any future applications for residential development would be considered on their merits at the time of the application.*

*In considering the overall planning balance, there would be economic benefits arising from the proposal, in particular the additional employment created during the demolition and construction phases, as well as social benefits in respect of the contribution towards the supply of new housing and support for rural communities. The proposal would also meet the requirements of the environmental role, as it does not result in any overriding harm to the countryside or landscape when compared to the fall-back position or prior approval scheme. The increase in size is not significant and does not amount to any landscape or visual harm that would amount to any environmental harm that warrants refusal of planning permission. There are no adverse impacts which would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.*

- No site notice has been posted.

*A site notice was erected on 21.08.2020. Neighbour notification letters were sent on 02.09.2020. The statutory requirement is to either notify neighbouring dwellings OR erect a site notice; this Council has exercised both forms of publication in this instance. The application was also advertised in the local newspaper on 28.08.2020.*

- This application appears to propose non-mains drainage for which an FDA1 should be submitted.

*This will be controlled by condition and an informative will also be added.*

- This application needs a Habitats Regulations Assessment and financial contribution.

*The necessary assessment has been undertaken and the appropriate financial contribution is secured by the accompanying Unilateral Undertaking.*

### Conclusion

Due to the special circumstances under which the application is being assessed and the fall-back position already approved, in the absence of any material harm resulting from the development, 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 strict accordance with the following approved plan: WHL - 201 Revision A.

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

- 3 Prior to the occupation of the dwellings hereby approved, all resultant waste and debris following demolition of the existing buildings subject of prior approval 17/01710/COUNOT shall be cleared from the site in its entirety. No materials produced as a result of the site clearance or development shall be burned on site.

Reason - In the interests of visual amenity, landscape impact and environmental protection.

- 4 Notwithstanding the provisions of Classes A, B, C, D and E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), the dwellings hereby permitted shall not be extended or ancillary buildings or structures erected within the curtilage without the prior written approval of the Local Planning Authority following the submission of a planning application.

Reason - In order to protect the rural character and appearance of the area.

- 5 No above ground level works shall take place until precise details of the provision, siting, design and materials of screen walls and fences have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be erected prior to the occupation of the development and thereafter be retained in the approved form unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure that the development is appropriate within its setting in the interests of visual amenity.

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

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

- 7 All demolition works and site clearance should be undertaken outside of the bird nesting season (taken to be March to the end of September).

Reason - To avoid risk of impact to common nesting birds from the demolition of the buildings on site.

- 8 Development works should not take place between sunset and sunrise between April and September (the main season of bat activity).

Reason - To minimise risk of impact to bats from the development.

- 9 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. Any security or spot lighting required should be kept to a minimum, and where possible be placed on a short timer to reduce the extent of lighting on site during development. 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.

- 10 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 semi-rural character of the area as insufficient details have been provided with the application.

- 11 Prior to occupation of the dwellings hereby approved, the parking spaces and turning areas shown on approved plans shall be constructed, surfaced and maintained free from obstruction at all times and retained for that sole purpose. Each individual parking space shall be 2.9 metres x 5.5 metres in size.

Reason - In the interests of highway safety.

- 12 The demolition and development shall be carried out in strict accordance with the Construction Method Statement and details contained within the email received from the agent on 13 October 2020.

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.

- 13 Following demolition of the buildings, a detailed foul water strategy shall be submitted to and approved in writing by the Local Planning Authority. The dwellings shall not be occupied until the works have been carried out in accordance with the foul water strategy as approved.

Reason – To prevent environmental and amenity problems, including any ground water pollution, arising from the system of foul water drainage employed on the site.

## **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.

## Building Control Informative

Fire tender access will be required to within 45m of any point in the dwellings.

## Highways Informatives

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](mailto:development.management@essexhighways.org) or by post to:

SMO1 – Development Management  
Essex Highways Ardleigh Depot,  
Harwich Road,  
Ardleigh,  
Colchester,  
Essex  
CO7 7LT

## Environmental Protection Informatives

### - Noise Control

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible.
- 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.

### - Emission Control

- 1) All waste arising from the 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. 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.
- 3) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Adherence to the above condition 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).

## Environmental Permitting

The applicant may be able to discharge sewage effluent under the General Binding Rules (GBR). This would be classed as a new discharge so additional rules would need to be complied with. The GBR can be found at:

<https://www.gov.uk/government/publications/small-sewage-discharges-in-england-general-binding-rules>.

If the applicant can't comply with the GBR they would need to apply for an Environmental Permit. The Environment Agency can provide basic pre-application advice for free to help with the permit application. A chargeable service is available if more in-depth advice is required. Pre-application advice can be obtained via this online form:

<https://www.gov.uk/government/publications/environmental-permit-pre-application-advice-form>.

A permit application can't be pre-determined so the applicant should not automatically assume that a permit will be issued. The applicant should also be aware that the granting of Planning Permission or Building Regulation approval does not guarantee the granting of an Environmental Permit.

The applicant will need to obtain separate permissions/easements to cross or use third party land if this is relevant to their proposal.