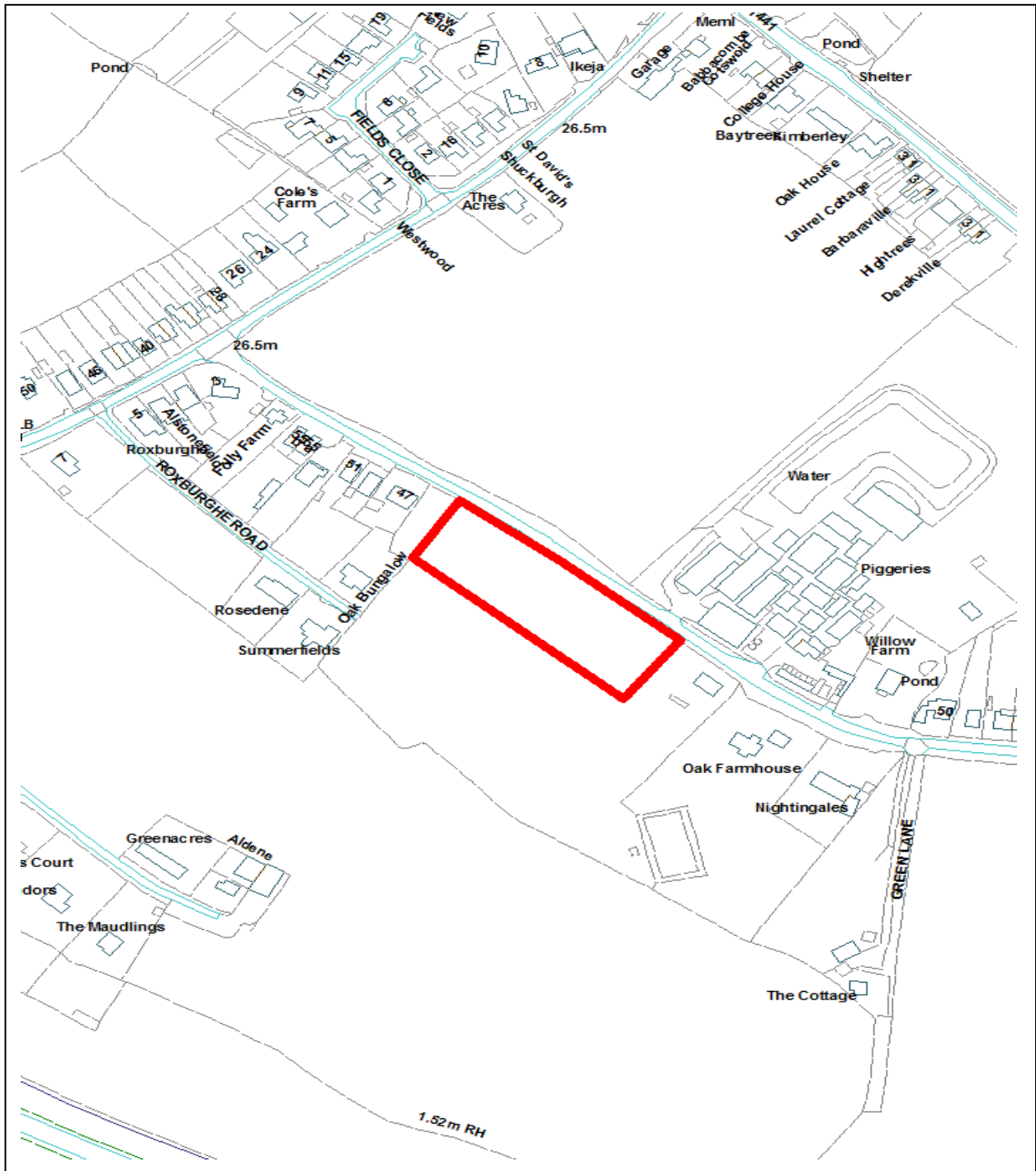


PLANNING COMMITTEE

30 NOVEMBER 2016

REPORT OF THE HEAD OF PLANNING

A.7 PLANNING APPLICATIONS - 16/01165/OUT - LAND ADJACENT 43 MILL LANE, WEELEY HEATH, CO16 9BZ



DO NOT SCALE

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Application:	16/01165/OUT	Town / Parish: Weeley Parish Council
Applicant:	Mr Partridge	
Address:	Land adjacent 43 Mill Lane, Weeley Heath, CO16 9BZ	
Development:	The construction of 6 No dwellings with associated garages and parking.	

1. Executive Summary

- 1.1 This application has been referred to Planning Committee at the request of Councillor Bray.
- 1.2 This application seeks outline planning permission with all matters reserved for the construction of 6 no. dwellings with associated parking and garaging.
- 1.3 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 0.55 hectares in size; it is relatively flat and is currently in agricultural use.
- 1.4 The application site lies outside of but abuts the defined settlement boundary relating to the Bentley Road settlement to the north-west and lies adjacent to the boundary relating to the Rectory Road settlement as defined within the Tendring District Local Plan (2007) and the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016). The settlement boundary within the draft plan has been amended to now include Willow Farm opposite and extends along Clacton Road joining the Bentley Road and Rectory Road settlements but the application site still lies outside.
- 1.5 The National Planning Policy Framework however sets out that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 1.6 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers considered that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF and as a result the proposed development cannot be refused solely on the basis that a site is outside the development boundary.
- 1.7 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight.
- 1.8 The site is considered to be located in a socially sustainable location and would meet the economic strand of sustainability. In respect of the environmental impact, subject to the detailed design being acceptable, it is considered that the site could be developed without raising any objections in respect of; the character and appearance of the area, residential amenity, highway safety and biodiversity considerations.

Recommendation: Approve

Conditions:

- 1) Time Limit – Outline
- 2) Time Limit – Submission of Reserved Matters
- 3) No Development until Reserved Matters (access, appearance, layout, landscaping and scale) submitted
- 4) Materials
- 5) Boundary treatments
- 6) Submission of hard/soft landscaping scheme
- 7) Implementation of landscaping scheme
- 8) Visibility splays of site maximum by 2.4m by site maximum
- 9) Provision of parking and turning prior to occupation.
- 10) No unbound materials in first 6m of access
- 11) Any gates set 6m back from highway
- 12) Off-street parking in accordance with current parking standards
- 13) Garages being set back 6m from highway
- 14) Details of communal refuse store provided
- 15) Timing of vegetation clearance
- 16) Lighting details
- 17) Biodiversity mitigation and enhancement provision

2. Planning Policy

National Policy

National Planning Policy Framework (2012)
National Planning Practice Guidance (2014)

Local Plan Policy

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
HG14 Side Isolation
EN1 Landscape Character
TR1A Development Affecting Highways
TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016)

SP1 Presumption in Favour of Sustainable Development
SPL1 Managing Growth
SPL3 Sustainable Design
LP1 Housing Supply
LP4 Housing Layout
PPL3 The Rural Landscape
CP2 Improving the Transport Network

3. Relevant Planning History

None.

4. Consultations

Tree & Landscape Officer

In order to show the extent to which the trees and hedgerows on the application site, and on land adjacent, are a constraint on the development of the land, and to identify the way that retained trees would be physically protected should planning permission for development be granted the applicant has provided a Tree Survey and Report. The report has been completed in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations and accurately describes the health and condition of trees and hedgerows on the land.

The land adjacent to the application site, 43 Mill Lane, is affected by Tree Preservation Order TPO/09/04. Whilst this has not been mentioned in the Tree Report the Tree Constraints Plan shows that the protected trees on the adjacent land will not be harmed by the implementation of the development proposal.

The planning application will not result in the removal of any trees, on the site itself, although a short section of hedgerow would need to be removed to improve the existing access. The application would, if approved, result in new tree and hedgerow planting ' albeit set against the urbanising impact of the development proposal on the existing landscape character

Should consent be likely to be granted then a condition should be attached to secure details of soft landscaping and boundary treatment.

The indicative site layout shows new tree planting and provision for a new hedgerow and tree planting on the southern boundary and on the boundary with the adjacent countryside. The trees and hedgerow should comprise of indigenous species and the boundaries should be marked by a simple post and rail fences to minimise the adverse impact of the development proposal when viewed from the open countryside.

ECC Highways Dept
ORIGINAL COMMENTS

This Authority has assessed the highway and transportation impact of the proposal and would wish to raise an objection to the above application for the following reasons:

The site is remote from all major services and more sustainable forms of transportation and as such all trips associated with the development would be by private vehicle.

Mill Lane is a very narrow rural lane covered by a 40mph speed limit. In order to provide appropriate vehicle visibility splays of 2.4m x 120m the applicant would need to remove a large section of hedging. This would be detrimental to the character of the highway.

The intensification in vehicular traffic along this lane will increase the risk of collisions and be detrimental to highway safety and efficiency.

The proposal is therefore contrary to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011;

A) Safety - Policy DM1 of the Highway Authority's Development Management Policies February 2011

B) Accessibility - Policy DM9 of the Highway Authority's Development Management Policies February 2011

**ECC Highways Dept
REVISED COMMENTS**

This Authority originally recommended this application be refused for a number of reasons. However, since the submission of the initial recommendation, the applicant has provided additional information regarding the proposal and, following further investigation and site attendance, this Authority is content that the proposal will not create a major highway safety or efficiency issue. In this regard the previous recommendation is now withdrawn.

This Authority has assessed the highway and transportation impact of the proposal and does not wish to raise an objection to the above application subject to the following:

o Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by the site maximum in both directions. Such vehicular visibility splays shall be provided before the 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 access and those in the existing public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

o Prior to occupation of the development the vehicular parking and turning facility, as shown on the submitted plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- o Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- o Any single garages should have a minimum internal measurement of 7m x 3m
- o Any double garages should have a minimum internal measurement of 7m x 6m
- o Any tandem garages should have minimum internal measurements of 12m x 3m

All garages shall be retained for the purposes of vehicle parking in perpetuity

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 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

- o No works shall commence until a detailed sustainable transport mitigation package has been submitted to and agreed, in writing by, the Local Planning Authority. This package will provide information on how the applicant proposes to mitigate any increase in private vehicular use associated with the development and will include appropriate information on all sustainable transport modes including bus and rail travel, cycling, walking (including the local Public Rights of Way network), taxi travel, car sharing and community transport in the vicinity of the site. The package shall thereafter be implemented as agreed for each individual dwelling and/or premises within 14 days of the first beneficial use or occupation of that unit.

Reason: In the interests of mitigating the impact of the approved development by seeking to reduce the need to travel by private car through the promotion of sustainable transport choices.

Note: Essex County Council as Highway Authority can assist in the production of appropriate material as packs of information are available for purchase by the developer. Contact the Sustainable Travel Planning team on 01245 436135 or email travelplanteam@essex.gov.uk for more information.

INF01 Highway Works - All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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:

Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ.

INF02 Cost of Works - 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.

INF03 Site Workers - Steps should be taken to ensure that the Developer provides sufficient turning and off loading facilities for delivery vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

5. Representations

5.1 Weeley Parish Council objects;

- The site is outside the village envelope.
- The site is opposite another site which has been already given planning approval and the increased traffic would be unacceptable.
- The loss of mature hedgerow to provide an acceptable visibility splay is not acceptable in this rural landscape.

5.2 3 letters of objection have been received.

The points raised are summarised below:

- The lane is too narrow for even more housing.
- At the access point the lane is only wide enough for one vehicle.
- Outside of the development boundary, both adopted and draft.
- No pavements.
- Use of car is essential as bus service too infrequent.
- Train station only has hourly train, nothing on Sundays, no ticket office and no disabled access.
- Floods after heavy rainfall.
- No places at local primary school.
- No doctors or chemist in Weeley.
- There is a request before Local Highways Panel for Mill Lane to be designated a quiet lane.
- 30mph limit not 40mph.

6. Assessment

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Principle of Development;
- Character and Appearance;
- Neighbouring Amenity;

- Highway Considerations;
- Biodiversity; and,
- Trees and Landscaping.

Site Context

- 6.2 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 0.55 hectares in size; it is relatively flat and is currently in agricultural use.
- 6.3 The site is bordered to the north-west by close boarded fencing serving the rear garden of 43 Mill Lane with vegetation beyond that separates the site from the residential properties in Roxburghe Road just behind. The north east frontage on to Mill Lane is marked by an established hedgerow containing a number of mature trees. A small area of land is open on the south east boundary and there are two detached properties beyond before reaching Green Lane. The south west boundary is open in character and forms part of the agricultural field.
- 6.4 To the east of the application site on the opposite side of Mill Lane is Willow Farm with a large collection of agricultural buildings subject of planning permission for 10 dwellings with access from Mill Lane and 36 with access from Clacton Road (ref. 15/00541/OUT and 16/01456/DETAIL). Beyond Green Lane, also on the southern side, planning permission has been granted for the construction of 6 no. detached houses between Green Lane and Rectory Road (ref. 16/00183/OUT).
- 6.5 These properties include a mixture of detached and semi-detached bungalows and chalet type houses.
- 6.6 The application site lies outside of but abuts the defined settlement boundary relating to the Bentley Road settlement to the north-west and lies adjacent to the boundary relating to the Rectory Road settlement as defined within the Tendring District Local Plan (2007) and the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016). The settlement boundary within the draft plan has been amended to now include Willow Farm opposite and extends along Clacton Road joining the Bentley Road and Rectory Road settlements but the application site still lies outside.

Proposal

- 6.7 The application seeks outline consent with all matters reserved for the construction of 6 no. dwellings (indicative drawing shows 1 no. 5 bedroom property; 4 no. 4 bedroom properties and 1 no. 3 bedroom property) with associated detached garaging and parking.
- 6.8 The applicant has indicated that whilst all matters are reserved for later consideration, an indicative drawing has been submitted to indicate how development could be achieved within the application site. The indicative drawing shows one vehicular access off Bentley Road with 6 residential properties situated off an internal access road.
- 6.9 These properties are indicated as accommodating in excess of 200 square metres of private amenity space being in excess of the minimum of 100 square metres required by adopted policy standards.
- 6.10 The landscaping shown on the illustrative drawing shows the retention of the existing hedge and trees with the provision of additional planting along the south west boundary and it is considered that this will make a positive contribution to biodiversity on the site.

Principle of Development

- 6.11 The application site is located outside of the defined settlement boundary as defined within the Tendring District Local Plan, 2007 which aims to direct new development to the most sustainable sites. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.
- 6.12 Weeley/Weeley Heath is identified as a village within Policy QL1 of the Tendring District Local Plan (2007) and on this basis it is considered that a modest amount of growth can be supported. 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.
- 6.13 Given the limited weight that can be applied to the draft Local Plan, and the status of policy QL1, assessment of the principle of development falls to be considered under the NPPF.
- 6.14 Chapter 6 of the National Planning Policy Framework (NPPF) has as an objective for the delivery of a wide choice of high quality homes. In order to facilitate this objective paragraph 49 of the NPPF sets out housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 6.15 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers consider that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF.
- 6.16 Based on the above it is considered that, in the absence of up-to-date policies, development proposals cannot be refused solely on the basis that a site is outside the development boundary. Paragraph 14 of the NPPF supports this view when it sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 6.17 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight. As a result the current scheme falls to be considered against the 3 dimensions of 'sustainable development',
- economic,
 - social and
 - environmental roles.
- 6.18 The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary.

Economic

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

Social

- 6.20 In terms of the social role, the site is within reasonable proximity of the local amenities within Weeley village that includes a village convenience store, post office and bakery within walking distance of the site. 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, situated in Clacton Road to the north east of the site, with services to Clacton, Frinton and Colchester.
- 6.21 In addition Weeley Railway Station is 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.
- 6.22 Although there is no footpath along Mill Lane both Rectory Road and Bentley Road are served by footpath that lead into Weeley.
- 6.23 Overall officers consider that the application site performs reasonably well in terms of the social role within the definition of sustainability.

Environmental

- 6.24 It is acknowledged that, in terms of settlement shape and form, development in this location is unlikely to have a significantly detrimental impact (subject to consideration against other Local Plan policies) as 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.
- 6.25 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.

Character and Appearance

- 6.26 The site is located in-between existing residential development that runs along this side of and fronts Mill Lane with existing dwellings on the opposite side to the south-east with future development at the Willow Farm site approved.
- 6.27 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.
- 6.28 The development proposed of 6 no. dwellings fronting onto Mill Lane in a linear arrangement therefore represents an appropriate response to the pattern of built 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.
- 6.29 Whilst scale is a reserved matter the details submitted show that the dwellings would be two-storey in height served by single storey garages located in a set back position. The area comprises of a mixture of bungalows, chalet style dwellings and two-storey properties. Against this backdrop the siting of 6.no two-storey properties on the site would not appear out of character or prominent in this location.

- 6.30 The indicative layout provided shows that the dwellings would be served by a single access point off Mill Lane utilising the existing field access and set behind an internal access road and the existing hedgerow. This arrangement would reduce the visual impact of the development and respect the semi-rural character of the locality.
- 6.31 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.

Neighbouring Amenity

- 6.32 The NPPF, in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the 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'. Policy SD9 of the Tendring District Local Plan Proposed Submission Draft (2012) supports these objectives and states that 'the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'.
- 6.33 The application is in outline form with all matters reserved and officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties or the future occupiers of the proposed dwellings.

Flooding

- 6.34 The site is not within a defined flood zone. The development will be required to include permeable or porous hard surfacing which will be dealt with at the reserved matters stages of the development. The proposed development cannot be considered as contributing to or exacerbating the existing flooding problems from the adjacent ditch.

Local Amenities

- 6.35 This is a smaller scale development where contributions towards healthcare and school provisions are not required.

Highway Considerations

- 6.36 Essex County Council as the Highway Authority has been consulted on the application (see above for details). Following additional information provided by the Applicant, they raise no objection to the principle of the development and are content that the proposal will not create a major highway safety or efficiency issue subject to conditions.
- 6.37 It is noted that objections have been received with regards to highway safety concerns, however as stated the Highway Authority have not raised any concerns from a highway safety aspect, and therefore Officers consider a refusal on this issue could not be substantiated.
- 6.38 The Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. It is considered that the site is capable of accommodating this level of parking and the submitted indicative plan demonstrates this.

Biodiversity

- 6.39 A reptile survey and mitigation strategy report has been submitted together with a bat detector survey. The findings of these reports are summarised below.

Reptile Survey

- 6.40 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.
- 6.41 The hedgerow along the western boundary is being retained within the final development ensuring 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.
- 6.42 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

- 6.43 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.
- 6.44 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.
- 6.45 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.
- 6.46 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.

Conclusion

- 6.47 As such the proposed development, subject to the recommended mitigation measures and the retention of the trees and hedgerows as specified, is not considered to adversely affect any nearby ecological designations, or protected species.

Background Papers

None.