

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	29/01/2021
Planning Development Manager authorisation:	TC	29/01/2021
Admin checks / despatch completed	CC	29.01.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	29.01.2021

**Application:** 20/01367/OUT **Town / Parish:** Bradfield Parish Council

**Applicant:** Mr P Schwier

**Address:** Steam Mill House Steam Mill Road Bradfield

**Development:** Outline application with all matters reserved except for access to deliver a cartlodge and up to 5 no. dwellings and associated hardstanding, fencing, outbuildings and drainage (considering access).

### **1. Town / Parish Council**

Bradfield Parish Council  
12.11.2020

Bradfield Parish Council supports the application and would like to note that apart from the bungalow on Steam Mill Road the type of houses proposed for this development is in line with village needs. The Council would like to request that Essex Highways carry out an impact assessment of the Steam Mill Road / Straight Road junction opposite the proposed development and that they consider putting in safeguards at this junction in regards to speeding traffic.

### **2. Consultation Responses**

Essex County Council  
Ecology  
17.12.2020

Thank you for consulting Place Services on the above application.

No objection subject to securing biodiversity mitigation and enhancement measures

#### Summary

We have reviewed the Preliminary Ecological Appraisal (Geosphere Environmental, July 2020) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats.

We are satisfied that there is sufficient ecological information available for determination.

This provides certainty for the LPA of the likely impacts on protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

The mitigation measures identified in the Preliminary Ecological Appraisal (Geosphere Environmental, July 2020) should be secured and implemented in full. This is necessary to conserve and enhance protected and Priority Species particularly breeding birds, foraging bats, hedgehogs and commuting badgers.

We note that Tendring DC have prepared a project level HRA Appropriate Assessment which identifies that the development is approximately 2km from the Stour and Orwell Estuaries SPA and

Ramsar. Therefore this site lies within the Zone of Influence (ZOI) for the Essex Coast RAMS and delivery of mitigation measures in perpetuity will therefore be necessary to ensure that this proposal will not have an adverse effect on the integrity of the above Habitats sites from recreational disturbance, when considered 'in combination' with other plans and projects. We also note that Tendring DC will secure the Essex Coast RAMS contribution per dwelling under a legal agreement.

We also support the proposed reasonable biodiversity enhancements, which have been recommended to secure measurable net gains for biodiversity, as outlined under Paragraph 170d of the National Planning Policy Framework 2019. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured as a condition of any consent.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006. Impacts will be minimised such that the proposal is acceptable subject to the conditions below based on BS42020:2013.

Submission for approval and implementation of the details below should be a condition of any planning consent.

Recommended conditions:

1. CONCURRENT WITH RESERVED MATTERS ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Geosphere Environmental, July 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."

Reason: To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

2. CONCURRENT WITH RESERVED MATTERS PRIOR TO SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

"A Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;

- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter."

Reason: To enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

### 3. CONCURRENT WITH RESERVED MATTERS PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

"A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority."

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species)

Please contact us with any queries.

Essex Wildlife Trust

No comments received.

ECC Highways Dept  
27.01.2021

The information that was submitted in association with the application has been fully considered by the Highway Authority. Due to the current COVID-19 restrictions no site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated March 2019. The site is located on the edge of the village but within the 30-mph speed limit; the approach either side of the access is straight with good visibility with the speed limit clearly signed. Access to the highway is gained via an existing point of access that is used by adjacent residents. The site offers adequate parking and turning 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. Prior to occupation of the development, the road junction / access at its centre line shall be provided with a minimum clear to

ground visibility splay with dimensions of 2.4 metres by 105 metres to the west and 2.4 metres by 54 metres to the east, 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 development and retained free of any obstruction above 600mm 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 occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

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

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

4. Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of 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. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

7. Prior to the occupation and in principal with drawing 932/02 minimum 2- metre-wide footway shall be provide on the east side of the junction to the development and eastwards to the existing junction, provided with associated tactile paving at the pedestrian crossing points.

Reason: To make adequate provision within the highway for the movement and safety of the additional pedestrian traffic generated as a result of the proposed development in accordance with policy DM1, DM9, and DM17.

8. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all

vehicles, including construction traffic shall be provided clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

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

Notes:

- In making this recommendation the Highway Authority has treated all planning application drawings relating to the internal layout of the proposal site as illustrative only.
- Prior to any works taking place in the highway the developer should enter into an S278 agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible).
- The development should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009.
- 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.

Informative

1: The applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway. Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence.

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

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

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.

Essex County Council  
Archaeology  
18.11.2020

The above planning application has been identified as having the potential to harm non-designated heritage assets with archaeological interest.

The Essex Historic Environment Record indicates the potential for below ground archaeological deposits within the proposed development area. Cropmarks are recorded within the adjacent areas, including ring ditches, enclosures and trackways which indicate possible prehistoric and later activity within the area. A Neolithic handaxe was found at Bradfield Heath and the site lies on the edge of the former heath which may be medieval in origin. Settlement was often located along the edges of the heath and the road to the moated site at Bradfield leads from the heath to the immediate east of the proposed development site. Mooted sites in Essex are typically medieval in origin, the original hall has been demolished and is replaced by a modern building. The western boundary was a former railway cutting which was abandoned in the 19th century and a mid 19th century steam mill lay at the southern boundary. The steam mill was destroyed by fire and reconstructed to form a residential dwelling. There is potential for structures associated with the steam mill to survive within the development area as well as prehistoric and medieval remains associated with the settlement at Bradfield Heath.

The following recommendations are made in line with the National Planning Policy Framework:

**RECOMMENDATION: A Programme of Archaeological evaluation**

1. No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the local planning authority.
2. No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined in 1 above.
3. The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

**Further Recommendations:**

A professional team of archaeologists should undertake the archaeological work. A brief outlining the level of archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications. If you have any questions about this advice, please do not hesitate to contact me.

### 3. Planning History

92/00563/FUL	(The Old Steam Mill, Bradfield Hall Farm, Bradfield) Rehabilitation of old steam mill to provide residential accommodation	Refused	25.08.1992
93/00333/FUL	(Old Steam Mill, Bradfield Hall Farm, Steam Mill Road, Bradfield) Refurbishment of old steam mill to provide residential accommodation with extensions and alterations	Approved	12.05.1993
96/01326/FUL	Proposed cart lodge and store and garden wall	Approved	07.01.1997

### 4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG9 Private Amenity Space

HG14 Side Isolation

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SPL1 Managing Growth

SPL3 Sustainable Design

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

## **5. Officer Appraisal (including Site Description and Proposal)**

### Site Description

The application relates to a parcel of land on the southern side of Steam Mill Road on the edge of the settlement of Bradfield sited to the front of the property known as Steam Mill House. The site is broadly rectangular in shape and extends approximately 0.45 hectares in size. The site is associated with Steam Mill House being relatively flat mown lawn bounded by a hedgerow along its western side and northern front boundaries. Access is gained from Steam Mill Road.

There are a few 2 storey dwellings to the east of the site with the more built up area of Bradfield beyond, defined by Straight Road. To the west of the site and opposite are open fields.

The site lies outside of the Bradfield 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.

### Description of Proposal

The application seeks outline planning consent for the erection of up to 5 dwellings and a new cartlodge for Steam Mill House. The application is made in outline form considering access only meaning scale, layout, appearance and landscaping are all reserved for future consideration.

The application is accompanied by an indicative layout and a detailed access plan showing the visibility splays.

### Assessment

The main considerations in this instance are;

- Principle of Development (5 Year Housing Land Supply);
- Impact on Character and Appearance;
- Trees and Landscaping;
- Access, Parking and Highway Safety;
- Residential Amenities;
- Biodiversity and Protected Species;
- Financial Contribution - Open Space/Play Space;
- Financial Contribution - Recreational Disturbance;
- Environmental Protection;
- Archaeology; and,
- Representations.

### Principle of Development (5 Year Housing Land Supply)



Paragraph 7 of the National Planning Policy Framework 2019 (NPPF) states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 explains that achieving sustainable development means that the planning system has three overarching objectives, namely an economic objective, a social objective and an environmental objective. However, Paragraph 9 emphasises that these objectives should be delivered through the preparation and implementation of plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. This is supported through Paragraph 11 which states that plans and decisions should apply a presumption in favour of sustainable development and for plan-making this means that plans should positively seek opportunities to meet the development needs of their area. Strategic policies should, as a minimum, provide for objectively assessed needs for housing.

For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay. Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date then permission should be granted. Footnote 7 explains that this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites with the appropriate buffer, as set out in paragraph 73.

However, Paragraph 12 of the NPPF states that presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. Paragraph 47 confirms that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

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) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10th December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.

The Council has now formally adopted Section 1 part of the development plan which carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan. In the interim, the modified policies in the Section 1 Local Plan, including the confirmed housing requirement, can be given significant weight in decision making owing to their advancement through the final stages of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) is now expected to proceed in 2021 and two Inspectors have already been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.

Where emerging policies are particularly relevant to a planning application and can be given 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.

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.

As the supply of deliverable housing sites in the modified Section 1 of the Local Plan is now in the order of 6.5 years this actual objectively assessed housing need for Tendring is a significant material consideration in the determination of planning applications which substantially tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing – particularly in the consideration of proposals that fall outside of the settlement development boundaries in either the adopted or the emerging Section 2 Local Plan.

In this instance, the site lies outside of the settlement development boundary for Bradfield 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 focused 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.

Saved Policy QL1 of the adopted Local Plan remains broadly consistent with the NPPF objective for achieving sustainable development. This is through a plan-led approach that focuses development to locations which are or can be made sustainable, limiting the need to travel and offering a genuine choice of transport modes. This also includes making effective use of land, particularly that which is previously developed, in meeting the need for homes. Those planned for rural areas are responsive to local circumstances and support local needs, whilst recognising the intrinsic character and beauty of the countryside. Emerging Policy SPL1 of the Publication Draft gain traction due to the same consistency with the NPPF as found in respect of those in the adopted Local Plan.

As set out above, the policies for the delivery of housing are considered up-to-date and the application must therefore be determined in accordance with Paragraph 11 c) of the NPPF, thus in accordance with the development plan.

Accounting for the housing land supply situation then, regardless of the proximity of the site in relation to services and amenities, there is no longer a requirement to consider such sites due to their location outside of the defined settlement development boundaries as the planned growth for the District to meet housing need has been established. In applying the NPPF's presumption in favour of sustainable development, the adverse impacts of the proposal both on the character of the locality and on the Council's ability to manage growth through the plan-led approach, are not outweighed by any benefits. The development is an unnecessary intrusion into the countryside and there are no public benefits that might warrant the proposal being considered in an exceptional light. The proposal is therefore contrary to the aims of paragraph 11 of the NPPF and contrary to the development plan Saved Policy QL1 and emerging Policy SP1.

### 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. 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.

Whilst only at an outline stage, the planning application includes an illustrative plan that shows how the homes could be arranged. It is envisaged 4 of the homes will echo the recently built set of 4 cottages immediately to the east of the application site with perhaps a chalet bungalow forming the key corner-turning property nearest to Steam Mill Road. This arrangement, in conjunction with the existing white rendered house, will complete a strong horseshoe shape arrangement and positively frame the courtyard/ open space/ gardens at its centre. The homes would each have appropriate gardens and provide an adequate number of car parking spaces in accordance with council policy. The proposed cartlodge would serve the existing Steam Mill House immediately to the south. It would primarily provide covered parking for this house, but also provide a physical barrier between the new homes and Steam Mill House.

Although the site could not be described as wholly isolated with built form to the south and east, the site itself is mostly bounded by open fields and contributes to the transition from the more built up area to the east, into the open countryside to the west. With open fields on the opposite side of the road and dwellings only located on the eastern side of Straight Road, the site and this section of Steam Mill Road take on a different character to the more built up area of Bradfield within the defined settlement Boundary. The dwellings in the immediate locality are well set back from the highway, spacious and sporadically sited contributing to the semi-rural character and transition into the open countryside directly adjacent.

The development represents an unplanned advance of urbanisation into the countryside eroding the semi-rural character of the locality resulting in a detrimental impact upon the landscape. Residential development of any scale on this site would appear harmful to the character and appearance of the area.

### Trees and Landscaping

The main body of the application site is set to grass with an established boundary hedgerow on its southern and western boundaries.

Just off-site at the eastern end of the southern boundary there are two established Oaks. One is large and features prominently in the street scene; the other is smaller and although it makes some contribution to the appearance of the area it is not comparable with that of the larger tree. As these trees are off-site they are unlikely to be affected by the development proposal.

On the western boundary, on the other side of a boundary ditch there is another Oak that can be clearly seen from the highway and makes a significant positive contribution to the character and appearance of the local landscape character. Taking into account the position of the tree and the ditch between the tree and the application site, which will act as a natural barrier to root growth, it is considered that the development proposal would be unlikely to adversely affect the viability of this tree.

### Access, Parking and Highway Safety

Paragraph 108 of the National Planning Policy Framework 2019 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

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

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

Following the submission and consideration of traffic speed data and a revised access/visibility splay plan, Essex County Council Highway Authority raise no objection subject to conditions.

### Residential Amenities

Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to create places that are safe, inclusive and accessible with a high standard of amenity for existing and future users. Saved Policy QL10 of the adopted Tendring District Local Plan (2007) states that 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 and accessibility. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives. Furthermore, Saved Policy HG14 of the adopted Tendring District Local Plan (2007) states that proposals for new dwellings will be required to retain appropriate open space between the dwellings and the side boundaries of the plot to safeguard the amenities and aspect of adjoining residents.

Officers consider that sufficient space is available on site to provide a development that could achieve an internal layout and separation distances that would not detract from the amenities of the future occupiers of the proposed dwellings and would provide private amenity areas in excess of the standards set out within Saved Policy HG9 of the adopted Local Plan.

### Biodiversity and Protected Species

A Preliminary Ecological Appraisal is submitted with this application.

Essex County Council Ecology have reviewed the Preliminary Ecological Appraisal (Geosphere Environmental, July 2020) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and confirm that there is sufficient ecological information available for determination. This provides certainty for the LPA of the likely impacts on protected and Priority species & habitats and, with appropriate mitigation measures secured by condition, the development can be made acceptable and would conserve and enhance protected and Priority Species particularly breeding birds, foraging bats, hedgehogs and commuting badgers.

### Financial Contribution - Open Space/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".

There is currently a deficit of 0.83 hectares of equipped play in Bradfield. There is one play area located in the village of Bradfield. The play area is classified as a Local Equipped Area for Play. Due to the significant lack of provision in the area a contribution to increase the play provision is both justified and relevant to the planning application and that this money would be spent at the closest play area which is The Street Bradfield.

This application is accompanied by a unilateral undertaking securing the required financial contribution.

### 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 on a site that lies within the Zone of Influence (Zol) being approximately 2000 metres from the Stour and Orwell Estuaries SPA and Ramsar. New housing development within the Zol 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.

### Environmental Protection

The Council's Environmental Protection Contaminated Land Database indicates potential contamination from the historic Steam Mill located to the south of the proposed site. The application is accompanied by a Phase 1 Desk Study and Preliminary Risk Assessment the finding of which are satisfactory.

The Phase 1 study indicates that there is a potential risk of harm from contamination. As recommended within the conclusion of the report, the applicant should undertake a Phase 2 Investigation which should include intrusive soil samples and gas monitoring at the proposed site. These requirements can be secured by condition.

Furthermore, in order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, should permission be given for the development of the site a full method statement to and receive written approval from Environmental Protection.

### Archaeology

The planning application has been identified as having the potential to harm non-designated heritage assets with archaeological interest.

There is potential for structures associated with the steam mill to survive within the development area as well as prehistoric and medieval remains associated with the settlement at Bradfield Heath.

A Programme of Archaeological evaluation and investigation could be secured by condition to manage and mitigate any potential harm to non-designated heritage assets with archaeological interest.

### Representations

Bradfield Parish Council support the application.

No individual letters of representation have been received.

### Conclusion

Regardless of the proximity of the site in relation to services and amenities, there is no longer a requirement to consider such sites due to their location outside of the defined settlement development boundaries as the planned growth for the District to meet housing need has been established. The adverse impacts of the proposal both on the character of the locality and on the Council's ability to manage growth through the plan-led approach, are not outweighed by any benefits or other material considerations. The development is unnecessary and there are no public benefits that might warrant the proposal being considered in an exceptional light. The proposal is therefore contrary to the aims of paragraph 11 of the NPPF and contrary to the development plan Saved Policy QL1 and emerging Policy SP1 and is therefore recommended for refusal.

## 6. Recommendation

Refusal - Outline

## 7. Reasons for Refusal

- 1 Paragraph 11 of the National Planning Policy Framework 2019 (NPPF) states that plans and decisions should apply a presumption in favour of sustainable development. For plan-making this means that plans should positively seek opportunities to meet the development needs of their area. Strategic policies should, as a minimum, provide for objectively assessed needs for housing. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay. Paragraph 12 of the NPPF states that presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10th December 2020. The Inspector's report confirms that, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring. The Council has now formally adopted Section 1 part of the development plan which carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan. In the interim, the modified policies in the Section 1 Local Plan, including the confirmed housing requirement, can be given significant weight in decision making owing to their advancement through the final stages of the plan-making process.

For the purposes of the determination of this application the Council can currently demonstrate that a 5 year housing land supply exists. Engaging the presumption in favour of sustainable development under paragraph 11d) of the NPPF does not apply in this instance. The policies for the delivery of housing are considered up-to-date and the application must therefore be determined in accordance with Paragraph 11 c) of the NPPF, thus in accordance with the development plan.

The application 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). Regardless of the proximity of the site in relation to services and amenities, there is no longer a requirement to consider such sites due to their location outside of the defined settlement development boundaries as the planned growth for the District to meet housing need has been established. The adverse impacts of the proposal both on the character of the locality and on the Council's ability to manage growth through the plan-led approach, are not outweighed by any benefits or other material considerations. The development is unnecessary and there are no public benefits that might warrant the proposal being considered in an exceptional light. The proposal is therefore contrary to the aims of paragraph 11c) of the NPPF and contrary to the development plan Saved Policy QL1 and emerging Policy SP1.

- 2 Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to

ensure that development is appropriate in its locality and does not harm the appearance of the landscape. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.

Although the site could not be described as wholly isolated with built form to the south and east, the site itself is mostly bounded by open fields and its openness contributes positively to the area and the transition from the more built up area to the east, into the open countryside to the west. With open fields on the opposite side of the road and dwellings only located on the eastern side of Straight Road, the site and this section of Steam Mill Road take on a different character to the more built up area of Bradfield. The 2 dwellings in the immediate locality are well set back from the highway, in spacious plots and are sporadically sited contributing to the semi-rural character and transition into the open countryside directly adjacent. Straight Road and the access road opposite create a clear line between the built up area and countryside.

The development represents an unplanned advance of urbanisation into the countryside eroding the semi-rural character of the locality resulting in a detrimental impact upon the landscape. Residential development of any scale on this site would appear harmful to the character and appearance of the area.

## **8. Informatives**

### Positive and Proactive Statement

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