

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	05/03/2021
Planning Development Manager authorisation:	TF	05/03/2021
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Application: 21/00016/FUL **Town / Parish:** Little Bentley Parish Council

Applicant: Fiddes

Address: Land Adj. 2 Crabtree Cottages Colchester Road Great Bentley

Development Proposed two new dwellings with parking, existing access reused.

1. Town / Parish Council

Great Bentley Parish Council No comments received.

2. Consultation Responses

ECC Highways Dept
04.03.2021

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 situated on a stretch of Colchester Road that is subject to a de-restricted speed limit.

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

1. As far as can be determined the applicant has failed to demonstrate adequate visibility splays from the proposed access in accordance with the speed of the road, to the satisfaction of the Highway Authority. The lack of such visibility would result in an unacceptable degree of hazard to all highway user to the detriment of highway safety.

2. The proposal would intensify the use of an existing access which has deficiencies in geometric layout and visibility which is not in accordance with current safety standards. The existence of an access in this location is a matter of fact and therefore some degree of conflict and interference to the passage of through vehicles already occurs but the intensification of that conflict and interference which this proposal would engender would be to the detriment of highway safety.

Therefore, this proposal is contrary to the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: The applicant has not demonstrated visibility splays in accordance with those required for the speed of the road. As far as can be determined from the submitted information, the proposals are showing a 2.4 metre x 120 metre visibility splay in both directions. The Highway Authority would expect to see a minimum visibility splay of 2.4 metres x 215 metres in both directions based on the speed limit on this section of Colchester Road.

2: Alternatively, the applicant would need to conduct a speed survey in accordance with CA 185 Vehicle Speed Measurement (Design Manual for Roads and Bridges), to establish the 85th percentile speed of the road and provide visibility splays in accordance. Speed surveys should be taken at the extent of the achievable visibility splays. Visibility splays must be achieved within the limits of public highway and/or land in the control of the applicant. Highway boundary information can be obtained from highwayrecords@essexhighways.org.

Clearly if the applicant does commission additional work there is no guarantee that the required standards can be met or that the proposal will be acceptable to the Highway Authority.

3. Planning History

00/00485/FUL	Proposed extensions	Approved	06.07.2000
92/00427/FUL	Conservatory and garden shed	Approved	12.05.1992
03/02084/FUL	Change of use of adjoining agricultural land to garden	Approved	10.12.2003
04/00320/FUL	Single storey extension to form granny annexe	Approved	09.11.2004
06/00595/FUL	Erection of a boiler house (adjacent to extension already approved).	Approved	13.06.2006

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
QL12	Planning Obligations
HG1	Housing Provision
HG6	Dwelling Size and Type

HG7	Residential Densities
HG9	Private Amenity Space
HG14	Side Isolation
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)

SPL1	Managing Growth
SPL3	Sustainable Design
HP5	Open Space, Sports & Recreation Facilities
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
CP1	Sustainable Transport and Accessibility

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 site is located between the properties known as 2 Crabtree Cottages (to the west) and Ellington (to the east) and is located to the northern side of the A133 (Colchester Road). The site comprises a disused grass field with a mature hedgerow along the front boundary with the highway and extends approximately 0.4 hectares in size. Access to the site is gained via the existing access serving number 2 Crabtree Cottages. The application form states that the site is currently in 'residential' use but there are no planning records to demonstrate this. The site lies outside of any defined settlement development boundary for the area and is therefore countryside.

Description of Proposal

The application seeks full planning permission for the erection of two detached, 2 storey, 4 bedroom dwellings each with a forward projecting adjoining double garage. Access to the dwellings would be via a shared private driveway (utilising the existing access serving 2 Crabtree Cottages) running behind the existing front boundary hedgerow with a Size 3 turning head at the eastern end (vacant field beyond, adjacent to Ellington).

Each property would occupy a generous plot and measures approximately 17m x 18.5m in size with an overall ridge height of approximately 7.5 metres.

The proposed plans show that the front boundary hedgerow is to be retained with close boarded fencing erected between the plots and along the eastern end boundary, with post and rail fencing to the rear boundary.

Assessment

The main considerations in this instance are:

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

Planning and Appeal History

Within the supporting statement accompanying the application, the agent cites planning and appeal decisions as being relevant material considerations to the acceptability of this proposal (officer response in italics):

- 20/00671/FUL/16/01040/OUT/18/00623/DETAIL
Little Paddocks Frating Road Great Bromley Colchester Essex CO7 7JL

This is a considerable distance from the application site comprising a site and development that is not comparable to the proposal in terms of character or scale. Furthermore, the application was approved at a time when the Council were unable to demonstrate a 5 year housing land supply. This planning history holds no weight in the determination of this application.

- 16/00623/FUL
Crabtree Cottage to the west of the Site

This application secured permission for a replacement dwelling (with a condition requiring the demolition of the existing and closure of the existing access). This is not comparable to the proposed development and holds no weight in the determination of this application for new, additional dwellings outside the settlement development boundary.

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 Great Bentley 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 any services, amenities or public transport links, 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.

The proposal seeks to erect 2 no. dwellings on a greenfield site within the open countryside resulting in the harmful consolidation of ribbon development along the A133. The proposed dwellings would be substantial in size with no special or extenuating circumstances presented to justify their need. The dwellings are bulky in design and lack coherence in terms of their form, massing, fenestration styling or size. The design approach therefore fails to promote local distinctiveness and the dwellings would appear incongruous in this semi-rural location contrary to the above-mentioned policies.

Moreover, the development represents an unplanned advance of urbanisation into the countryside and would impact significantly the openness of the site and surrounding landscape, by reason of its scale, siting and appearance. As such, the proposed development would be out of keeping within its surroundings and constitute an inappropriate form of development that would neither enhance nor conserve the countryside for its own sake. The development would therefore be wholly out of character and would set a harmful precedent for other similar development within the area.

Trees and Landscaping

The application site is set to rough grass and there are no trees or other significant vegetation within the main body of the land that would be affected by the development proposal.

The boundary with the highway is demarcated by a hedgerow comprising indigenous species such as Hawthorn, Blackthorn and Oak. The plan entitled 'Block Plan and Landscaping' show that this landscape feature will be retained. This is desirable for its own sake and for the screening benefits that it would provide. The plan also shows new tree planting on the northern boundary of the proposed development and this could be strengthened by the planting of a new hedge similar to that on the boundary with the highway as described above.

However, no existing or new planting is considered sufficient to overcome the principle objections and landscape impact set out above.

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.

However, Essex County Council Highway Authority raise an objection to the development as the application fails to demonstrate that adequate visibility splays from the proposed access in accordance with the speed of the road, can be achieved to the satisfaction of the Highway Authority. The lack of such visibility would result in an unacceptable degree of hazard to all highway user to the detriment of highway safety. The proposal would intensify the use of an existing access which has deficiencies in geometric layout and visibility which is not in accordance with current safety standards. The existence of an access in this location is a matter of fact and therefore some degree of conflict and interference to the passage of through vehicles already occurs but the intensification of that conflict and interference which this proposal would engender would be to the detriment of highway safety.

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. The distance to the property known as 'Ellington' to the east and the presence of mature boundary vegetation ensures that no loss of light or loss of privacy will occur.

Financial Contribution - Open Space/Play Space

Paragraph 54 of the National Planning Policy Framework (2019) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

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.

In line with the requirements of saved Policy COM6 and emerging Policy HP5, the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space.

There is currently a deficit of -1.73 hectares of equipped play in Great Bentley. A contribution towards open space improvements and maintenance is relevant and justified to this application.

A completed S106 legal agreement to secure the above-mentioned planning obligations has not been provided and the application is therefore contrary to the above-mentioned policies.

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 contribution is secured by unilateral undertaking.

The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zol) being approximately 6,500 metres from the Colne Estuary SPA and RAMSAR and the Essex Estuaries SAC. New housing development within the Zol would be likely to increase the number of recreational visitors to the Colne Estuary and Essex 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 proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As

submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites. The proposal is therefore considered to be contrary to 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.

Representations

Great Bentley Parish Council have not commented on the application.

4 letters of objection have been received (some from the same resident). The concerns raised can be summarised and addressed as follows (officer response in italics):

- Out of character.
The principle of development a visual impact is addressed above and forms a reason for refusal.
- Harmful to residential amenities.
The impact of the development on residential amenities is addressed above and does not form a reason for refusal.
- Change of use to garden land approved in 2003 does not allow houses to be built.
Application 03/02084/FUL relates to a parcel of land directly adjacent to number 2 Crabtree Cottages. The red lined site subject of this application lies beyond.
- Will result in more traffic leaving and entering the A133.
Highway safety is addressed above and forms a reason for refusal.
- No details of for mains water and soil waste.
These details have not been provided as part of the application. However, were the development to be approved these matters could be dealt with via condition or at the building regulations stages of development and do not form a reason for refusal.

Conclusion

Regardless of the proximity of the site in relation to any services, amenities or public transport connections, 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 - Full

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.

The proposal seeks to erect 2 no. dwellings on a greenfield site within the open countryside resulting in the harmful consolidation of ribbon development along the A133. The proposed dwellings would be substantial in size with no special or extenuating circumstances presented to justify their need. The dwellings are bulky in design and lack coherence in terms of their form, massing, fenestration styling or size. The design approach therefore fails to promote local distinctiveness and the dwellings would appear incongruous in this semi-rural location contrary to the above-mentioned policies.

Moreover, the development represents an unplanned advance of urbanisation into the countryside and would impact significantly the openness of the site and surrounding landscape, by reason of its scale, siting and appearance. As such, the proposed development would not be in keeping with its surroundings and constitute an inappropriate form of

development that would neither enhance nor conserve the countryside for its own sake. The development would therefore be wholly out of character and would set a harmful precedent for other similar development within the area.

- 3 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.

The application fails to demonstrate that adequate visibility splays from the proposed access in accordance with the speed of the road can be achieved. The lack of such visibility would result in an unacceptable degree of hazard to all highway user to the detriment of highway safety. The proposal would intensify the use of an existing access which has deficiencies in geometric layout and visibility which is not in accordance with current safety standards. The existence of an access in this location is a matter of fact and therefore some degree of conflict and interference to the passage of through vehicles already occurs but the intensification of that conflict and interference which this proposal would engender would be to the detriment of highway safety.

- 4 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.

In line with the requirements of saved Policy COM6 and emerging Policy HP5, the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space.

There is currently a deficit of -1.73 hectares of equipped play in Great Bentley. A contribution towards open space improvements and maintenance is relevant and justified to this application.

A completed S106 legal agreement to secure the above-mentioned planning obligations has not been provided and the application is therefore contrary to the above-mentioned policies.

- 5 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 contribution is secured by unilateral undertaking.

The application scheme proposes new dwellings on a site that lies within the Zone of Influence (ZoI) being approximately 6,500 metres from the Colne Estuary SPA and RAMSAR and the Essex Estuaries SAC. New housing development within the ZoI would be likely to increase the number of recreational visitors to the Colne Estuary and Essex 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 proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites. The proposal is therefore considered to be contrary to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the

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 reasons for the refusal, approval has not been possible.