

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	09/03/2021
Planning Development Manager authorisation:	TF	10/03/2021
Admin checks / despatch completed	ER	10/03/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	10.03.2021

Application: 20/01803/FUL **Town / Parish:** Thorpe Le Soken Parish Council

Applicant: Bocking Homes

Address: The Woodlands Edward Road Thorpe Le Soken

Development: Proposed erection of 4 two bed dwellings arranged as two pairs of semi detached properties with car parking and amenity space.

1. Town / Parish Council

Thorpe Parish Council No comments received.

2. Consultation Responses

TDC Building Control and Access Officer
27.01.2021 Agent will need to demonstrate that there is access for a fire fighting appliance complying with Approved Document B.

ECC Highways Dept
19.02.2021 The information that was submitted in association with the application has been fully considered by the Highway Authority. 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. It is noted that the application is similar to previous application:19/01635/FUL which the Highway Authority did not object to, also:

The Highway Authority observes that Edward Road is classified as a Private Road and therefore does not object to the proposals as submitted subject to the following conditions:

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

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

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

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

3. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the carriageway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the carriageway 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.

Informative:

1: As Edward Road is classified as a Private Road, the applicant should therefore be requested to demonstrate the rights of pass and repass to the proposed development site exist in perpetuity and that the applicant also has the necessary permissions to make a vehicular connection to Edward Road.

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

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

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

3: Each vehicular parking space which is bounded by walls or other construction shall have minimum dimensions of 3.4 metres x 5.5 metres, this is to ensure adequate space for parking off the highway is provided.

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

3. Planning History

09/00007/FUL	Change of use of land to horse paddock.	Approved	17.03.2009
09/00800/FUL	Change of use of land to paddock and erection of stable block.	Approved	25.11.2009

10/00131/FUL	Erection of stable block (variation to planning permission 09/00800/FUL).	Approved	12.04.2010
14/00343/OUT	One house.	Refused	08.05.2014
14/01086/OUT	One house.	Approved	27.10.2014
17/00267/FUL	Proposed erection of one dwelling.	Approved	18.04.2017
19/00904/FUL	Erection of 4no. two bed houses.	Refused	16.09.2019
19/01635/FUL	Erection of two x 3 bed detached houses in lieu of extant permission for one x 4 bed house.	Approved	15.04.2020

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1	Spatial Strategy
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
HG1	Housing Provision
HG3	Residential Development Within Defined Settlements
HG6	Dwelling Size and Type
HG9	Private Amenity Space
HG14	Side Isolation
EN6	Biodiversity
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN17	Conservation Areas
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
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SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
PPL4	Biodiversity and Geodiversity
PPL8	Conservation Areas
CP1	Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Conservation Area Character Appraisals

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. In this latter regard, as of 26th January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.

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 adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26th January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have 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.

In relation to housing supply:

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

With the adoption of the modified Section 1 of the emerging Local Plan, the Councils 'objectively assessed housing need' of 550 dwellings per annum has been found 'sound' and there is no housing shortfall. The Council is able to report a significant surplus of housing land supply over the 5 year requirement, in the order of 6.5 years.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site is located to the south of the Thorpe Le Soken railway line at the end of Edward Road, which is a private, unmade road to the west of Harwich Road/Station Road (B1414). The site lies outside the Settlement Development Boundary for Thorpe-le-Soken as defined by the adopted Tendring District Local Plan 2007 and directly abuts the new Thorpe Station and Thorpe Maltings Settlement Boundary as proposed within the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The site is also directly adjacent to the Thorpe Le Soken Station and Maltings Conservation Area.

To the north of the application site is the railway line and to the east of the site is a recently built development of a pair of cottages with 3 pairs of former railway workers cottages beyond.

Description of Proposal

The application seeks full planning permission for the erection of 4 no. 2 bed dwellings arranged as 2 pairs of semi-detached properties served by a vehicular access and tandem parking to the side of each dwelling (double width access centrally).

Assessment

The main considerations in this instance are;

- Relevant Planning and Appeal History;
- Principle of Development;
- Design and Appearance/Impact on Conservation Area;
- Residential Amenities;
- Trees and Landscaping;
- Highways and Parking;
- Financial Contribution - Open Space/ Play Space;
- Financial Contribution – Recreational Disturbance; and,
- Representations.

Relevant Planning and Appeal History

The site has been subject of a previously approved outline application with all matters reserved for one detached dwelling under planning application reference 17/00267/FUL. This application remained an extant permission at the time of the approval of application 17/00267/FUL. 17/00267/FUL sought permission for 1 no. 4 bedroom detached dwelling and was approved on

18.04.2017 and therefore remained extant until April 2020. The extant outline permission reference 14/00343/OUT held significant weight in the approval of application 17/00267/FUL together with the fact that the Council were unable to demonstrate a 5 year housing land supply at the time of approval.

This current application follows a similar scheme of 4 no. two-bedroom houses refused on 16th September 2019 under planning application reference 19/00904/FUL, which was not taken to appeal. Application 19/00904/FUL was determined at a time when the Council were unable to demonstrate a 5 year housing land supply.

During the determination of application 19/00904/FUL (on 14th August 2019), an appeal was dismissed for the site opposite, namely 'Land on south side of Edward Road, Thorpe' appeal reference APP/P1560/W/18/3206024, following the refusal of application 18/00041/OUT. The main issues in this appeal dealt with:

- whether the proposal is a suitable location for new residential development having regard to the spatial strategy of the development plan;
- the effect on the character and appearance of the area, including the setting of the Thorpe Le Soken Station and Maltings Conservation Area; and,
- the effect of trees and biodiversity.

Of particular interest is Paragraph 8 of the appeal decision where The Inspector considered that:

Although the appeal site is close to a rail station and services and facilities in Thorpe Le Soken it would not be within easy walking distance, and any future occupants of a dwelling generally have to rely on private transport for their day to day needs' and concluded that 'the proposal would not be a suitable location having regard to the spatial strategy in the development plan.

At paragraph 9 of the appeal decision, the Inspector concluded, amongst other things, that:

The proposed dwelling would be out of character with the pattern of development, being located to the south of Edward Road and not part of the existing cluster of dwellings.

Although the appeal site was not wholly comparable to the site being considered under 19/00904/FUL (being located on the opposite side of Edward Road) the conclusions made within the appeal decision in terms of the accessibility to services were a relevant material consideration. The reasons for refusal associated with application 19/00904/FUL for 4 dwellings can be summarised as follows (which also include the lack of a UU for RAMS and Open Space financial contributions);

Socially unsustainable

- Although the appeal site is close to a rail station and services and facilities in Thorpe Le Soken it would not be within easy walking distance, and any future occupants of the dwellings would generally have to rely on private transport for their day to day needs. The proposal would not be a suitable location having regard to the spatial strategy in the development plan.
- The proposal for 4 no. 2 bed dwellings would intensify the occupancy of the site from 1 no. 4 bed dwelling approved under reference 17/00267/FUL therefore exacerbating the social sustainability concerns set out above.

Visual Harm / Harm to Conservation Area

- The proportions of the dwellings (too narrow and deep), density of development (number of dwellings per average plot) and appearance (detailed design) failed to respond to the immediate character or reflect the identity of local surroundings therefore being an unsympathetically designed, cramped development.

- The tandem parking arrangement failed to provide the larger width parking spaces required by Paragraph 3.2.7 of the adopted Essex County Council Parking Standards 2009 thus contributing toward the argument that the development was cramped.

Most recently, application 19/01635/FUL for the erection of 2 no. 3 bedroom detached houses (in lieu of extant permission for 1 no. 4 bedroom house) was approved on 15th April 2020 and remains extant. The justifications made for the approval can be summarised as follows;

- The detailed design and proportions of the amended proposal satisfactorily overcome previous design and impact concerns. The dwellings are wider, more spacious in layout on a larger plot and include design features such as dormer windows that break the eaves responding appropriately to local character.
- The net gain of 1 dwelling (having regard to the extant permission) was not considered significantly harmful to warrant a refusal on social grounds *only* (all other matters resolved) in the context of no 5 year HLS at that time.

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 Part 1 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 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, 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 allowing additional dwellings on the site on 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 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.

Design and Appearance/Impact on Conservation Area

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. Paragraph 127 of the NPPF states that planning decisions should ensure that developments add to the overall quality of the area and are sympathetic to local character and history, including the surrounding built environment. Policy QL9 and QL11 of the Tendring District Local Plan (2007) seek to ensure that all new development makes a positive contribution to the quality of the local environment and is of a suitable scale and nature appropriate to the locality. These sentiments are carried forward within Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Furthermore, Paragraphs 184 of the NPPF states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Specifically Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

The site is located adjacent to the Thorpe le Soken Station and Maltings Conservation Area, which was designated in 1990 to meet concerns regarding the Maltings and its late-Victorian setting. The Conservation Area is characterised by its distinctive buildings, most notably the former Thorpe le Soken Maltings building, which is Grade II listed and a former public house, both of which are to the north of the railway line. The 3 pairs of former railway workers cottages in Edward Road form an attractive group of dwellings, but have been altered and are now visually separated from the Maltings and the railway. Whilst the Tendring District Council Conservation Area Review (CAR) 2006, recommends that Edward Road and land to the south of the railway lines be removed from the Conservation Area, this has not occurred. Therefore the site still remains adjacent to the Conservation Area and the duty to pay special attention to the desirability of preserving or enhancing the character of the area is still relevant.

Saved Policy EN17 of the adopted plan states the development will be refused where it would prejudice the setting and surroundings of a Conservation Area or harm the inward or outward views. Furthermore, draft Policy PPL8 of the emerging plan states that permission will not be granted for development outside but near to a Conservation Area if it detracts from that Area's character.

The railway cottages fronting Harwich Road/Station Road take on a different character than those located along Edward Road itself. Edward Road comprises 3 pairs of cottages averaging approximately 9.5 metres in width and 5 metres in depth (prior to extensions at numbers 4 and 6 taking the average to 6.6m in depth), with each pair occupying a site area of approximately 0.1 hectares. The design of the dwellings include dormer window features that break the eaves with modest ridge and eaves heights to accommodate these design features. The most recent development on land adjacent to number 6 approved under 16/01198/OUT and 16/02090/DETAIL comprised a pair of semi-detached dwellings that suitably reflected the density, footprint, design and proportions of the existing row of cottages.

The application site extends approximately 0.01 hectares in size and proposes 4 no. 2 bed dwellings each being 4.5 metres in width and over 10 metres depth (reducing to 8.6m at first floor level). This is very similar to the previously refused scheme. The narrow width of the dwellings and high density of development remains unacceptable in terms of the relationship with the immediate character.

The revised scheme includes a window feature to the front elevation in an attempt to address the previous reasons for refusal regarding the eaves breaking dormers features at neighbouring dwellings. However, the proposal simply includes a taller window with a gable feature above. The eaves height, overall proportions of the dwellings and window feature design are not in keeping with the existing dwellings in Edward Road.

The proportions of the dwellings, density of development and appearance therefore fail to respond to the immediate character or reflect the identity of local surroundings and would fail to preserve or enhance the inward or outward views of the Thorpe le Soken Station and Maltings Conservation Area.

Residential Amenities

Paragraph 127 of the NPPF states that planning should always seek to secure a high standard of amenity for all existing and future occupants. In addition, Policy QL11 of the Saved Plan 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 SPL3 of the draft plan carries forward these sentiments. Furthermore, Saved Policy HG9 sets out the minimum standards for private amenity space requiring 75sqm for 2 bed properties.

The garden sizes are in excess of Saved Policy HG9 of the adopted Tendring District Local Plan 2007. The proposal is therefore considered acceptable in terms of private amenity space. The spacing between the development and existing properties is considered sufficient to retain a good standard of residential amenity. First floor windows serve bedrooms only and the side facing windows serve bathrooms with obscure glazing. There will be no significant or materially harmful levels of overlooking.

Trees and Landscaping

There are no longer any trees or other significant vegetation on the application site. The proposed development is immediately adjacent to existing development and the local landscape character has no special qualities.

Highways and Parking

Policy QL10 of the Saved Plan 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.

Edward Road is a private road, it is relatively narrow in width and there is a parking area on the opposite side to the existing housing. Essex County Council Highway Authority does not wish to submit formal comments on the application as this is a private road.

The Essex County Council Parking Standards 2009 require a minimum of 2 parking spaces per dwelling in this instance. The preferred vehicles parking bay sizes are set out in paragraph 3.2.1 of the standards stating that each space should be 5.5m x 2.9m with parallel parking bay length being a 6.0m. Paragraph 3.2.7 goes on to say that parking areas that are adjacent to solid structures such as a wall or fence should increase the width of these bays by 1m to allow for improved manoeuvrability and entry/exit of people to/from the vehicle. Due to the layout of the development with solid structures and fences adjacent to the parking areas, the parking bays should be the larger size required by the Parking Standards. The usability of the spaces (getting into and out of parked vehicles when in their bays) would be somewhat restricted therefore lacking in good functionality.

The proposal for 4 no. 2 bed houses will result in additional traffic movements on Edward Road, to a greater extent than that associated with 2 no. 3 bed dwellings (as per the extant permission). However, the traffic movements cannot be considered so excessive as to result in any significant adverse impact on the highway network or highway safety. Any future occupants would have a responsibility for the upkeep of the road along with existing owners.

A separate refusal based on highway safety or manoeuvrability due to the cramped parking is not considered justified in this instance. However, the undersized parking bays do contribute toward the visual and character harm in terms of the overall cramped appearance of the development.

Financial Contribution - Open Space/ Play Space

Paragraph 54 of the National Planning Policy Framework (2018) 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".

There is currently a deficit of 2.43 hectares of play and formal open space in Thorpe-le-Soken. Any additional development in Thorpe-le-Soken will increase demand on already stretched play facilities. The Parish Council have just started to create a new area of play in a woodland area, this is an ongoing project to add to the play facilities in Thorpe. Due to the significant lack of provision in the area it is felt that a contribution is justified and relevant to the planning application and that this money would be used towards additional facilities at Lockyers Wood.

This application is not accompanied by a completed unilateral undertaking for a contribution towards play and formal open space facilities and therefore this scheme does not comply with Policy COM6.

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 3500 metres from Hamford Water Ramsar, SAC and SPA.. New housing development within the Zol would be likely to increase the number of recreational visitors to the Hamford Water and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A completed unilateral undertaking has not been provided to secure this legal obligation. As submitted, there is no certainty that the development would not adversely affect the integrity of European Designated Sites and the application is therefore 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

Thorpe-le-Soken Parish Council have not commented on the application.

1 individual letter of objection has been received. The concerns raised can be summarised and addressed as follows (officer response in italics);

- Edward Road is a quite country lane, not an estate.

Access, parking and highway safety are addressed in the main report above.

- Edward Road is in a poor state of repair and cannot sustain additional traffic and construction traffic.

Edward Close is a private road and any upkeep or surfacing is the responsibility of the owners, not the County Council.

Conclusion

Accounting for the housing land supply situation, regardless of the proximity of the site in relation to services and amenities, the adverse impacts of allowing additional dwellings on the site on 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. Furthermore, the visual harm and failure to provide a completed UU to secure the required financial contributions form reasons 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 11 d) 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.

Accounting for the housing land supply situation, 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 allowing additional dwellings on the site on 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 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.

- 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. Paragraph 127 of the NPPF states that planning decisions should ensure that developments add to the overall quality of the area and are sympathetic to local character and history, including the surrounding built environment. Policy QL9 and QL11 of the Tendring District Local Plan (2007) seek to ensure that all new development makes a positive contribution to the quality of the local environment and is of a suitable scale and nature appropriate to the locality. These sentiments are carried forward within Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The site is located adjacent to the Thorpe le Soken Station and Maltings Conservation Area.

Paragraph 184 of the NPPF states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Saved Policy EN17 of the adopted plan states the development will be refused where it would prejudice the setting and surroundings of a Conservation Area or harm the inward or outward views. Furthermore, draft Policy PPL8 of the emerging plan states that permission will not be granted for development outside but near to a Conservation Area if it detracts from that Area's character.

By virtue of the density of the dwellings, the ridge and eaves height, the depth and narrow width, tall gable window features and undersized parking bays, the layout, scale, proportions, design and appearance of the development fails to respond to the immediate character or reflect the identity of local surroundings. The development is out of character and fails to make a positive contribution to the quality of the local environment therefore failing to preserve or enhance the inward or outward views of the Thorpe le Soken Station and Maltings Conservation Area contrary to the above-mentioned national and local plan policies.

- 3 Paragraph 54 of the National Planning Policy Framework (2018) 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".

There is currently a deficit of 2.43 hectares of play and formal open space in Thorpe-le-Soken. Any additional development in Thorpe-le-Soken will increase demand on already stretched play facilities. The Parish Council have just started to create a new area of play in a woodland area, this is an ongoing project to add to the play facilities in Thorpe. Due to the significant lack of provision in the area it is felt that a contribution is justified and relevant to the planning application and that this money would be used towards additional facilities at Lockyers Wood.

This application is not accompanied by a completed unilateral undertaking for a contribution towards play and formal open space facilities and therefore this scheme does not comply with Policy COM6.

- 4 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 3500 metres from Hamford Water Ramsar, SAC and SPA.. New housing development within the Zol would be likely to increase the number of recreational visitors to the Hamford Water and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A completed unilateral undertaking has not been provided to secure this legal obligation. As submitted, there is no certainty that the development would not adversely affect the integrity of European Designated Sites and the application is therefore 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.

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.

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	NO
Are there any third parties to be informed of the decision? If so, please specify:	NO