

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	22/04/2021
Planning Development Manager authorisation:	TF	22/04/2021
Admin checks / despatch completed	DB	22.04.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	22.04.2021

Application: 21/00203/FUL **Town / Parish:** Ardleigh Parish Council

Applicant: Lewis Black

Address: Land Between Sangro and Bowtens Colchester Road Ardleigh

Development: Erection of self-contained two storey dwelling with private amenity space, cartlodge for parking and stable block for equine housing and hay storage

1. Town / Parish Council

Ardleigh Parish Council
10.03.2021

Ardleigh Parish Council strongly objects to this application. Our Neighbourhood Plan consultation is providing clear evidence that our residents wish to retain the rural feel of Ardleigh and do not want more houses.

Over 75% disagreed or strongly disagreed with the statement "I think the Parish of Ardleigh Needs More Housing Development", and 99% agreed or strongly agreed that "The Parish of Ardleigh should retain its rural characteristics in relation to the visual quality of buildings, open spaces, trees, hedges, etc.".

Ardleigh is a rural settlement within the lowest tier of the settlement hierarchy. The proposed development is outside of the settlement development boundary with limited access to services and facilities, and would not deliver any wider local benefits.

The Council noted that the site was currently agricultural that the loss of further farm land was undesirable and that the design and position/ frontage of the proposed development was not in keeping with nearby properties.

Tendring District Council has now adopted Section 1 of the Local Plan and can demonstrate more than 5 years housing land supply. A development proposal in this location does not accord with the up-to-date development plan. 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. This planning application conflicts with an up-to-date development plan, hence permission should not be granted.

2. Consultation Responses

Essex County Council
Ecology

Holding objection due to insufficient ecological information on European Protected Species (Great Crested Newts)

15.03.2021

We have reviewed the documents supplied by the applicant, relating to the likely impacts of development on Protected & Priority habitats and species, identification of proportionate mitigation.

We are not satisfied that there is sufficient ecological information available for determination of this application.

The Preliminary Ecological Appraisal (Monarb, January 2021) states that further surveys for Great Crested Newts (GCN) are required, as there is a pond with a "good" Habitats Suitability Index (HSI) score within 35m of the development site. The Natural England GCN Rapid Risk Assessment Calculator states that if 0.01-0.5Ha of land is to be lost within 100m of a GCN breeding pond, then an offense is likely. We therefore recommend that further GCN surveys are completed. If access is not permitted to the ponds, then a non-licensed mitigation method statement should be provided.

This information is necessary, prior to determination, as paragraph 99 of the ODPM Circular 2005 highlights that: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."

This is needed to enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

We look forward to working with the LPA and the applicant to receive the additional information required to support a lawful decision and overcome our holding objection.

ECC Highways Dept
21.04.2021

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, google earth image dated April 2019. The site is located within the 40-mph speed limit and is adjacent to some existing dwellings; the site appears to offer 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 clear to ground visibility splay with dimensions of 2.4 metres by 120 metres in both directions, 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 vehicular traffic and retained free of any obstruction 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 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway

boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1.

3. 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.

4. Prior to occupation of the development the areas within the site identified for the purpose of loading/unloading/reception and storage of materials and manoeuvring shall be provided clear of the highway and retained thereafter for that sole purpose.

Reason: To ensure that appropriate loading / unloading facilities are available in the interest of highway safety in accordance with policy DM1.

5. No unbound material shall be used in the surface treatment of the vehicular access within 11 metres of the highway boundary.

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

6. 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 and provided with an appropriate dropped kerb crossing of the footway/verge.

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.

7. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 11 metres from the back edge of the footway / cycleway or where no provision of footway/cycleway is present, the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety in accordance with policy DM1.

8. 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.

9. 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.

10. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been surfaced, and sealed. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

11. 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.

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

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

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and 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: 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

2: Under Section 23 of the Land Drainage Act 1991, prior written consent from the Environment Agency is required to build any culvert

(pipe) or structure (such as a dam or weir) to control or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River.

If you believe you need to apply for consent, please contact the Environment Agency as soon as possible to discuss your plans. Planning permission does not negate the requirement for consent, and full details of the work you propose will be required at least two months before you intend to start. Once preliminary details have been agreed, you will be asked you to fill in an application form, which must be returned with the appropriate fee.

Please call the Environment Agency on 08708 506 506 and ask for the Essex Development and Flood Risk Team to discuss this requirement further.

3: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

3. Planning History

21/00203/FUL	Erection of self-contained two storey dwelling with private amenity space, cartlodge for parking and stable block for equine housing and hay storage	Current
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4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1	Spatial Strategy
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
HG1	Housing Provision
HG6	Dwelling Size and Type
HG9	Private Amenity Space
HG14	Side Isolation
COM6	Provision of Recreational Open Space for New Residential Development

COM12	Equestrian Uses and Buildings
EN1	Landscape Character
EN6	Biodiversity
EN6A	Protected Species
EN11A	Protection of International Sites European Sites and RAMSAR Sites
TR1A	Development Affecting Highways
TR7	Vehicle Parking at New Development

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

SP1	Presumption in Favour of Sustainable Development
SPL1	Managing Growth
SPL3	Sustainable Design
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

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 relates to a parcel of land between Sangro and Bowtens, Colchester Road, Ardleigh.

The site lies outside of the Ardleigh 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

This application seeks planning permission for the erection of a self-contained two storey dwelling and adjoining family annexe with private amenity space, cartlodge for parking and stable block for equine housing and hay storage.

The main considerations in this instance are;

1. Principle of Development
2. Layout, Scale and Impact
3. Parking and Highway Safety
4. Residential Amenity
5. Trees and Landscaping
6. Habitats and Protected Species
7. Financial Contribution - Open Space and Plans Space
8. Financial Contribution - Recreational Disturbance

9. Other Considerations

1. Principle of Development

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 Bromley 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 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.

2. Layout, Scale and Impact

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.

In addition, 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 dwelling and the side boundaries of the plot to ensure that new development is appropriate in its setting and does not create a cramped appearance. As a guideline, a minimum distance of 1 metre will be sought and where circumstances warrant it, a greater distance will be expected.

The site is located in between existing road frontage, linear residential development that runs along this side of Colchester Road. The immediate locality comprises a mixture of single storey, two storey and chalet style dwellings with the most immediate neighbours being the 1.5 storey 'Sangro' and 2 storey 'Bowten's both with set back garages.

In terms of design and appearance, the dwelling is two storey with a double front gable projection and a cart lodge. It is considered that the features proposed are all positive and contribute positively to the overall design and appearance of the proposed dwelling.

The proposed materials; slate, weinerberger multi stock red brick, upvs battleship grey and natural oak effect door are considered to be acceptable materials that will give the proposed dwelling a modern appearance.

The proposed dwelling would occupy a large plot with the surrounding area comprising of a mix of plot sizes and accordingly the plot would not read as a plot out of character along this section of Colchester Road. As a result the proposed dwelling would not represent a cramped form of development detrimental to the street scene, as it would provide important gaps to both sides in excess of the minimum standards set out within saved Policy HG14.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of three bedrooms or more should be a minimum of 100sqm. The submitted plans demonstrate that sufficient private amenity space is provided in accordance with Policy HG9.

The proposed cartlodge is located to the front of the application site and will therefore be visible from Colchester Road. Due to the one and a half storey as well as the use of matching materials, it is considered that the proposal will be in keeping with the application site.

The proposed stables building is considered to be of a scale, nature and design appropriate to the locality. The stable building will be set back from the highway of Colchester Road with vegetation to the surrounding boundaries. The stables will comprise of a machine/utility store, tack room, hay/straw store and 4 stalls. The building will be constructed from timber cladding to match the cartlodge, concrete pantiles, upvc windows and timber door. A soft landscaping condition will be imposed to help to ensure that the proposed stables will satisfactorily assimilate into its setting.

3. 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.

Essex Highway Authority were originally consulted on this application and objected as the applicant had not demonstrated that the site had adequate visibility splays for the proposed access. Plans were provided and the Highway Authority re-consulted. The Authority have stated that 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, google earth image dated April 2019. The site is located within the 40-mph speed limit and is adjacent to some existing dwellings; the site appears to offer adequate parking and turning. The Highway Authority therefore have no objection subject to conditions relating to visibility splays, pedestrian visibility splays, vehicular turning facility, storage of building materials, no unbound materials, private drive, gates, no discharge of surface water, boundary planting, vehicular parking area, cycle parking and a construction method statement.

Furthermore, the Essex County Council Parking Standards 2009 state that for dwellings of 2 or more bedrooms, 2 off-street parking spaces should be provided. The plans provided demonstrate that the application site can accommodate in excess of two parking spaces in line with Essex Parking Standards.

The plans demonstrate a cartlodge provided to the front of the application site. The cartlodge will measure 6 m by 9 metres which is under the required standards however sufficient parking is provided on site. The proposed development is therefore acceptable in terms of highway safety and parking provision.

4. Residential Amenities

Paragraph 127 of the National Planning Policy Framework (2019) states that planning should always seek to secure a good standard of amenity for all existing and future occupants. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives. Furthermore, private amenity standards are set out in within Saved Policy HG9 of the adopted Local Plan.

The proposed dwelling is located a sufficient distance away from both neighbouring boundaries. Although there are two first floor windows proposed which will serve an en-suite and bathroom, a condition will be imposed to ensure that these are obscure glazed to reduce any impact of overlooking onto neighbouring amenities.

The proposed cartlodge will be visible to 'Bowtens' however it is considered that due to the distance to the boundary as well as the pitched roof away from the neighbouring amenities it is not considered to cause any impact upon neighbouring amenities.

The proposed stables are located to the rear of the application site. Although there is a track which runs near to the neighbouring boundary, it is considered that the vehicular movement will be minimal. There is vegetation which will also help to reduce any impact upon the neighbouring amenities.

5. Trees and Landscaping

The application site is set to grass and appears to be in agricultural use. There are no trees or other significant vegetation in the main body of the land. The boundary with the highway is demarcated by an established hedgerow comprising indigenous species such as Hawthorn and Blackthorn as well as a few established oak trees.

The presence of overhead power cables has meant that the hedgerow and the trees contained therein have been regularly reduced to maintain safe separation between the vegetation and the overhead cables. This has resulted in the trees and the hedgerow having a rather stunted appearance.

As a result of the previous maintenance of the trees none merit formal legal protection by means of a tree preservation order although it would be desirable for the hedgerow and the trees to be retained for the screening benefit that they provide.

A soft landscaping condition will be imposed to secure replacement planting for any vegetation that may need to be removed to facilitate the development.

6. Financial Contribution - Open Space and Play Space

Policy COM6 of the adopted Local Plan 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". The financial contribution would be secured through a legal agreement.

There is currently a deficit of 1.70 hectares of equipped play/open space in Ardleigh. Any additional development in Ardleigh will increase demand on already stretched facilities and increase the deficit further.

There are two play areas in Ardleigh one located at Colchester Road that was renovated a couple of years ago and the other is The Recreation Ground on Station Road which is in need of improvements and maintaining to cope with any additional development.

Due to the significant lack of facilities in the area it is felt that a contribution is justified and relevant to this planning application. The contribution would be used to make improvements and maintain The Recreation Ground/Millennium Green.

A completed legal agreement has not been provided to secure this planning obligation and the proposal therefore fails to comply with the above-mentioned local plan policy.

7. 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 (Zoi) being but is approximately 5.4km away from Stour and Orwell Estuaries RAMSAR and SPA.. New housing development within the Zoi would be likely to increase the number of recreational visitors to the Stour and Orwell Estuary 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.

8. Habitats and Protected Species

Saved Policies EN6 'Biodiversity' and EN6a 'Protected Species' of the adopted Tendring District Local Plan 2007 state that development proposals will not be granted planning permission unless existing local biodiversity and protected species are protected. A similar approach is taken in draft Policy PPL4 Biodiversity and Geodiversity of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Essex County Place Services Ecology Team have been consulted on this application and have stated that they have a holding objection due to insufficient ecological information on European Protected Species (Great Crested Newts)

The team have reviewed the documents supplied by the applicant, relating to the likely impacts of development on Protected & Priority habitats and species, identification of proportionate mitigation. The team are not satisfied that there is sufficient ecological information available for determination of this application.

The Preliminary Ecological Appraisal (Monarb, January 2021) states that further surveys for Great Crested Newts (GCN) are required, as there is a pond with a "good" Habitats Suitability Index (HSI) score within 35m of the development site. The Natural England GCN Rapid Risk Assessment Calculator states that if 0.01-0.5Ha of land is to be lost within 100m of a GCN breeding pond, then an offense is likely. The team recommends that further GCN surveys are completed. If access is not permitted to the ponds, then a non-licenced mitigation method statement should be provided.

This information is necessary, prior to determination, as paragraph 99 of the ODPM Circular 2005 highlights that: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision." The applicant has not provided a Great Crested Newt survey and therefore is contrary to Policies EN6 'Biodiversity' and EN6a 'Protected Species' of the adopted Tendring District Local Plan 2007 and Policy PPL4 Biodiversity and Geodiversity of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

9. Other Considerations

Ardleigh Parish Council strongly objects to this application and has stated that our Neighbourhood Plan consultation is providing clear evidence that our residents wish to retain the rural feel of Ardleigh and do not want more houses. Over 75% disagreed or strongly disagreed with the statement "I think the Parish of Ardleigh Needs More Housing Development", and 99% agreed or strongly agreed that "The Parish of Ardleigh should retain its rural characteristics in relation to the visual quality of buildings, open spaces, trees, hedges, etc." Ardleigh is a rural settlement within the lowest tier of the settlement hierarchy. The proposed development is outside of the settlement development boundary with limited access to services and facilities, and would not deliver any wider local benefits. The Council noted that the site was currently agricultural that the loss of further farm land was undesirable and that the design and position/ frontage of the proposed development was not in keeping with nearby properties. Tendring District Council has now adopted Section 1 of the Local Plan and can demonstrate more than 5 years housing land supply. A development proposal in this location does not accord with the up-to-date development plan. 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. This planning application conflicts with an up-to-date development plan, hence permission should not be granted.

2 letters of objection have been received raising the following concerns:

- Concerns over the loss of farmland
- Concerns in regards to the impact to the wildlife
- Concerns that the proposed development is out of keeping with the neighbouring properties
- Concerns that the proposed development is overdevelopment
- Concerns the dwelling does not follow the established building line

- Concerns the site is outside the settlement boundary

The above concerns have been addressed within the report.

- Concerns over the loss of privacy to the neighbouring rear garden and obstruct the countryside views. Concerns over the first floor windows on the first floor and ground floor that have direct views onto the house and private garden. Concerns over the position of the 'Cartlodge' and the natural light into the neighbouring garage.

The neighbouring impact of the proposed development has been addressed within the report. The first floor window that is referred to serves a bathroom and will be obscure glazed and fixed shut to avoid any impact of overlooking onto neighbouring amenities. The ground floor windows are not considered to cause any harm as there will be a boundary treatment which will screen any views. The garage has been addressed within the report.

- Concerns regarding the access track to the stables including the frequency of vehicles, health issues and views into the neighbouring garden.

Essex County Highways have been consulted on this application and have no objections. Conditions would be imposed to ensure that there is no burning, foul water and external lighting to minimise the impact upon neighbouring amenities.

- Concerns in regards to sewerage

The application form states that the dwelling will be served by a soakaway.

- Concerns in regards to the neighbour's emotional and financial circumstances.

The above concern is not a material planning consideration and therefore has not been taken into consideration when determining this application.

6 letters of support have been received raising the following comments:

- In keeping with the surrounding properties
- Using the land for equestrian purposes is a good use of the land
- No issues with the traffic as the development will have direct access onto Colchester Road
- Similar application nearby
- The proposed development is considered an infill
- This application protects the entrance to the land off Harwich Rd and the use of the land behind the dwelling for equine purposes is in keeping with the rural location.

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 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 but is approximately 5.4km away from Stour and Orwell Estuaries RAMSAR and SPA.. New housing development within the Zol would be likely to increase the number of recreational visitors to the Stour and Orwell Estuary 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.

- 3 Policy COM6 of the adopted Local Plan 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". The financial contribution would be secured through a legal agreement.

There is currently a deficit of 1.70 hectares of equipped play/open space in Ardleigh. Any additional development in Ardleigh will increase demand on already stretched facilities and increase the deficit further.

There are two play areas in Ardleigh one located at Colchester Road that was renovated a couple of years ago and the other is The Recreation Ground on Station Road which is in need of improvements and maintaining to cope with any additional development.

Due to the significant lack of facilities in the area it felt that a contribution is justified and relevant to this planning application. The contribution would be used to make improvements and maintain The Recreation Ground/Millennium Green.

A completed legal agreement has not been provided to secure this planning obligation and the proposal therefore fails to comply with the above-mentioned local plan policy.

- 4 Paragraph 175 of the National Planning Policy Framework (2018) states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused . Paragraph 5.3 of government document 'Planning for Biodiversity and Geological Conservation: A Guide To Good Practice', states that "In the development control process, the onus falls on the applicant to provide enough information to enable the Local Planning Authority to assess the impacts on biodiversity and geological conservation. Planning applications must be supported by adequate information". Standing advice from Natural England recommends that an initial scoping or extended Phase 1 habitat survey should be conducted to assess the site and the results of this used to inform (the need for) subsequent species specific surveys. No such information has been provided with this application. Neither is evidence provided to outweigh the need to protect such species in accordance with the tests outlined in Article 16 of the EC Habitats Directive. As such, the proposal is in conflict with the afore-mentioned policies, guidance, directive and the Framework.

The proposal is contrary to Saved Policies EN6 'Biodiversity' and EN6a 'Protected Species', that state development proposals will not be granted planning permission unless existing local biodiversity and protected species are protected. A similar approach is taken in draft Policy PPL4 'Biodiversity and Geodiversity' of the emerging local Plan.

The preliminary Ecological Appraisal states that further surveys for Great Crested Newts are required. The applicant has not provided the surveys. The Local Planning Authority is therefore unable to say with confidence that the proposal will not have an adverse impact on any protected species and therefore would be contrary to saved Policies EN6, EN6a, draft Policy PPL4 and Paragraphs 175 of the National Planning Policy Framework.

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 Applicant. 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.

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