

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	20/07/2021
Planning Development Manager authorisation:	SCE	21.07.2021
Admin checks / despatch completed	ER	21/07/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	21.07.2021

Application: 21/00965/OUT **Town / Parish:** Lawford Parish Council

Applicant: Peter and John King

Address: Land East of 60 Harwich Road Lawford Manningtree

Development: Outline Application for erection of one dwelling (All Matters Reserved)

1. Town / Parish Council

Lawford Parish Council Not commented on this application.

2. Consultation Responses

ECC Highways Dept
14.07.2021

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 March 2021. Based on the proposed site plan the new dwelling will have a separate vehicular access to the host dwelling. It appears that the host and proposed dwellings will retain adequate off-street 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 dwelling, the private vehicular access at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 210 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 dwelling a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

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

3. No unbound materials shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM1.

4. Prior to occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 4.5 metres (equivalent to 5 drop kerbs), shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1

5. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

6. All off-street, car parking shall be in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 & 8.

7. At no point shall gates be provided at the vehicular access. The access shall remain open and free for use thereafter.

Reason: To give vehicles using the access free and unhindered access to and from the highway in the interest of highway safety and in accordance with policy DM1.

8. The Cycle / Powered Two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

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

9. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway.

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

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

Informative:

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

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

4: 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

14/01786/FUL	Proposed first floor rear extension to create 2 no. new bedrooms.	Approved	15.01.2015
15/00595/FUL	Proposed first floor rear extension to create 2 no. new bedroom.	Approved	05.06.2015

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

QL11 Environmental Impacts and Compatibility of Uses (part superseded)

QL12 Planning Obligations

HG10 Conversion to Flats and Bedsits

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

EN1 Landscape Character

EN5 Areas of Outstanding Natural Beauty (AONB's)

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

COM6 Provision of Recreational Open Space for New Residential Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)

Relevant Section 1 Policies (adopted)

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP3 Spatial Strategy for North Essex

Relevant Section 2 Policies (emerging)

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SPL1 Managing Growth

HP5 Open Space, Sports & Recreation Facilities

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 adopted 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 land east of 60 Harwich Road, Lawford. The site measures approximately 0.1 hectares and is located on the northern side of Harwich Road.

The plot itself forms an eastern part of the garden to no. 60 A shared access with no.59 Harwich Road leads to the parking area for the host property as well as the entrance to a number of outbuildings to the rear. The frontage is enclosed by wooden fencing and a loose sequence of trees.

Proposal

This application seeks outline planning permission for the erection of one dwelling to the east of number 60 Harwich Road.

This application is establishing the principle only. Access, Layout, Scale, Landscaping and Appearance is therefore reserved for subsequent approval as part of a detailed application.

An indicative block plan has been provided demonstrating the access from Harwich Road.

Assessment

The main considerations for this application are;

- Principle of Development
- Layout, Scale, Character and Impact
- Residential Amenities
- Highway Safety and Parking
- Trees and Landscaping
- Area of Outstanding Natural Beauty
- Financial Contributions - Open Space
- Habitat Regulations Assessment
- Other Considerations

1. Principle of development

Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise as set out in (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). The 'development plan' for Tendring comprises, in part, the 'Saved' policies of the 2007 Local Plan. Paragraph 213 of the Framework allows local planning authorities to give due weight to adopted albeit outdated policies, according to their degree of consistency with the policies within it.

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 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.

Policy SP3 (Spatial Strategy for North Essex) of the 2013-2033 Local Plan states, amongst other things, that development will be accommodated within or adjoining settlements, according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area. Future growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. New housing development should be focused towards the larger urban areas and to within settlement development boundaries. This is consistent with the Framework's objectives for achieving sustainable development 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

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

Accounting for the housing land supply situation then, regardless of the proximity of the site in relation to services and amenities, there is no longer a requirement to consider such sites due to their location outside of the defined settlement development boundaries as the planned growth for the District to meet housing need has been established.

In applying the NPPF's presumption in favour of sustainable development, the adverse impacts of the proposal both on the character of the locality and on the Council's ability to manage growth through the plan-led approach, are not outweighed by any benefits. The development is an unnecessary intrusion into the countryside creating visual harm and there are no public benefits that might warrant the proposal being considered in an exceptional light. The proposal is therefore contrary to the settlement hierarchy and housing policies of the development plan.

2. Layout, Scale, Character and Impact

Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Emerging Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout, create a unique sense of place - avoiding the use of ubiquitous standard house types. Paragraph 127 of the Framework requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

The application is in outline form only, with all matters reserved for a future application. As such, no elevational or layout plans have been provided. That notwithstanding, it is considered that the site is capable of accommodating one dwelling, with all of the necessary parking and private amenity requirements. The design of the dwelling should be in keeping with the current street scene.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of one bedroom should be a minimum of 50 square metres, for a dwelling with two bedrooms there should be a minimum of 75 square metres, and for a dwelling of three bedrooms or more there should be a minimum of 100 square metres. The submitted plans provide no information as to the number of bedrooms, but the above minimum measurements must be adhered to within a future application.

3. Residential Amenities

The NPPF, in paragraph 127 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Adopted Policy SP7 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected.

Paragraph 127 f) of the Framework requires that planning decisions should create places with a high standard of amenity for existing and future users. Saved Policy HG9 of the adopted Local Plan sets out the minimum standards for private amenity space.

Appearance and layout are reserved for later consideration. It is considered that the proposed dwelling could be accommodated on the site with no material loss of amenity in terms of loss of light, outlook or privacy. It is therefore considered that sufficient spacing between properties could be achieved to result in a development that would not harm the amenities of neighbours.

4. Highway Safety and Parking

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. The adopted Tendring District Local Plan (2007) Saved Policy TR1a states that development affecting highways should seek to reduce and prevent hazards and inconvenience to traffic. Emerging Policies SPL3 and CP1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 seek to ensure that access to a development site is practicable; that the highway network will be able to safely accommodate the traffic generated; and that the design and layout of the development provides safe and convenient access.

Essex County Council have been consulted on this application and have stated that no site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated March 2021. Based on the proposed site plan the new dwelling will have a separate vehicular access to the host dwelling. It appears that the host and proposed dwellings will retain adequate off-street parking and turning. The Highway Authority has no objection subject to conditions relating to vehicular access, vehicular turning facility, no unbound materials, right angles of vehicular access, no discharge of surface water, car parking measurements, gates, cycle parking and storage of building materials.

As access is a reserved matter these conditions will not be imposed at this stage but will be reconsidered on submission of the detailed reserved matters proposal.

Furthermore, the Council's Adopted Parking Standards require that for a dwelling with two or more bedrooms that a minimum of two parking spaces are required. Parking spaces should measure 5.5m x 2.9 metres and garages, if being relied on to provide a parking space, should measure 7m x 3m internally. The submitted plans do not indicate the number of bedrooms, but it is considered there is sufficient space within the site to provide the necessary parking for one dwelling.

5. Trees and Landscaping

Paragraph 170 of the National Planning Policy Framework (2019) states planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and should protect and enhance valued landscapes.

Policy EN1 of the Saved Local Plan states the quality of the district's landscape and its distinctive local character will be protected and, where possible, enhanced. Any development which would significantly harm landscape character or quality will not be permitted. The sentiments of this policy are carried forward within Emerging Local Plan Policy PPL3.

Landscaping will be secured at the reserved matters stage to secure details of soft landscaping to soften, screen and enhance the appearance of the development.

The main body of the application site is set to grass and does not contain any trees or other significant vegetation.

On the boundary of the application site with Harwich Road there are a row of trees that have a pleasant softening impact on the appearance of the area. The trees comprise of early mature Hawthorn, Goat Willow, Maple and Sycamore. None of them meet the criteria under which they

merit formal legal protection by means of a tree preservation order; however it would be desirable for those that do not need to be removed to create the new access to the site to be retained for their screening and amenity value

In order to minimise the adverse impact of the development on the existing character of the locality new planting opportunities should be maximised to soften the appearance of the proposed development.

7. Area of Outstanding Natural Beauty

Policy EN5 of the Tendring District Plan 2007 states that development which would harm or otherwise fail to conserve the natural beauty of the landscape of an AONB, including the views towards it from outside, will not be permitted. Major development will only be approved if there is an overriding national need, and in the absence of any alternative sites outside the AONB. The Council will have regard to the Dedham Vale Management Strategy when determining applications affecting the Dedham Vale AONB. Conflicting proposals will not be permitted. PPL3 of the Emerging Local Plan states that Development proposals affecting protected landscapes must pay particular regard to the conservation and enhancement of the special character and appearance of the Dedham Vale AONB, and its setting, and the setting of the Suffolk Coast and Heaths AONB, including any relevant AONB Management Plan objectives. New development which would impact upon the proposed extension to the Suffolk Coast and Heaths AONB, or its setting, should have specific regard to any special landscape qualities of the area affected.

The proposal will not have a substantial impact on the Dedham Vale AONB as the proposed dwelling will replace part of the existing greenhouse area, therefore it is not considered to cause any significant harm to the landscape character of the area.

8. Financial Contributions - Open Space

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

There is currently a deficit of -3.44 hectares of equipped play/open space in Lawford.

No contribution is being requested from Open Spaces on this occasion.

9. Habitat Regulations Assessment

Following Natural England's recent advice and the introduction of Zones of Influence around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influence (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.

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 new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 1.8km 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 and SP2 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.

10. Other Considerations

Lawford Parish Council have not commented on this application.

No letters of representation have been received.

6. **Recommendation**

Refusal - Outline

7. **Reasons for Refusal**

- 1 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise as set out in (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). The 'development plan' for Tendring comprises, in part, the 'Saved' policies of the 2007 Local Plan. Paragraph 213 of the Framework allows local planning authorities to give due weight to adopted albeit outdated policies, according to their degree of consistency with the policies within it.

Section 1 of 2013-2033 Local Plan was adopted on the 26th January 2021 and therefore forms part of the 'development plan'. The adoption confirms that the Councils 'objectively assessed housing need' of 550 dwellings per annum has been found to be 'sound' and there is no housing land supply shortfall; the Council is currently able to report a surplus of housing land supply well in excess of the 5 year requirement. Although the Framework requires that Councils significantly boost the supply of housing, this substantially tempers the amount of weight that can reasonably be attributed to the benefit of further new housing. This is particularly relevant in the consideration of proposals for additional dwellings that fall outside of identified settlement development boundaries.

Policy SP3 (Spatial Strategy for North Essex) of the 2013-2033 Local Plan states, amongst other things, that development will be accommodated within or adjoining settlements, according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area. New housing development should be focused towards the larger urban areas and to within settlement development boundaries. This is consistent with the Framework's objectives for achieving sustainable development 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. Accounting for the current housing land supply situation, there is no requirement to consider housing growth outside of these boundaries as the planned growth for the District to meet housing need has been established.

Planning permission was granted for a dwelling adjacent to the application site under planning reference 20/01630/OUT for the erection of one dwelling. However, this was an on balance decision given that the quantum of glasshouses to be removed would be replaced with one dwelling as well as maintain a gap along the Harwich Road frontage which would in turn retain the sporadic nature of the development along the streetscene. However, the introduction of a dwelling in this location tilts the planning judgement and would act to incrementally lead to a more intensive and urbanising effect. In particular this would lead to a built up street frontage which would be out of character with the openness of the countryside.

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 creating visual harm and there are no public benefits that might warrant the proposal being considered in an exceptional light. The proposal is therefore contrary to the settlement hierarchy and housing policies of the development plan.

- 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 application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 1.8km 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 and SP2 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 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
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO