

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	16/09/2022
Planning Development Manager authorisation:	AN	22/09/22
Admin checks / despatch completed	ER	22.09.2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	22.09.2022

Application: 22/00184/FUL **Town / Parish:** Weeley Parish Council

Applicant: Holme Oak Developments

Address: Land adjacent 2 Barnfields Clacton Road

Development Proposed erection of a custom-build dwelling.

1. Town / Parish Council

Weeley Parish
Council
01.03.2022

Weeley Parish Council considered this application at its meeting on 21 February 2022. It resolved to offer no objection but to comment as follows.

The Council hopes that Essex Highways will insist that the access road to the dwellings meets the prescribed standards to service the number of dwellings.

The Council hopes that if the application is approved it will be on the premise that as many of the trees as possible on the site will be retained.

2. Consultation Responses

ECC Highways
17.08.2022

The information that was submitted in association with the application has been fully considered by the Highway Authority. A previous site visit was undertaken in conjunction with an earlier planning application. The information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material. It is noted that outline planning permission (18/01698/OUT) was granted for two dwellings. Access to the development will be from an established private access, the proposed dwelling would utilise the existing driveway that runs through the site and will serve the two dwellings approved under 20/01500/DETAIL together with the host dwelling. The proposal offers adequate off-street parking and turning, considering these factors:

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 the occupation of any of the proposed dwelling, 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.

2. The proposed dwelling shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been hard surfaced, sealed and if required marked out in parking bays. 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.

3. As indicated on drawing no. 1212A . I . 006 (A) 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.

4. 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.

5. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified 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: 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

2: 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.

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.

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

Land adjacent 3 Barnfields:

02/01556/OUT	Demolition of existing buildings and erection of "2 Barn style dwellings"	Refused	29.10.2002
16/01355/FUL	New 3 bed bungalow.	Approved	18.10.2016
16/02049/TPO	T1 - Oak - reduce by 30% due to fungus growth	Approved	10.01.2017
19/01316/FUL	New 3 bed bungalow.	Approved	22.11.2019
20/00680/DISCON	Discharge of conditions 3 (materials), 4 (Landscaping) and 7 (piling and slabs) for approval 19/01316/FUL.	Approved	21.07.2020

Land adjacent 2 Barnfields (incorporating the current application site):

17/00430/OUT	Outline planning application with all matters reserved for the residential development of three detached self-build or custom-built houses.	Refused	18.08.2017
18/00029/REFUSE	APP/P1560/W/18/3196180	<i>Dismissed on appeal</i>	24.07.2018
18/01698/OUT	Outline planning application with all matters reserved for the residential development of 0.3ha of land for 2no. self-build or custom-built houses.	Approved	03.03.2020
20/01500/DETAIL	Submission of reserved matters application pursuant to outline permission 18/01698/OUT to build 2 no. detached dwellings.	Approved	26.02.2021
21/01039/DISCON	Discharge of condition 5 (Residential Travel Pack) and 6 (Hard and Soft Landscaping Works) of approved application 20/01500/DETAIL.	Approved	04.08.2021
21/01469/DISCON	Discharge of condition 8 (Construction Method Statement) of application 18/01698/OUT.	Approved	12.10.2021

4. Relevant Policies / Government Guidance

National:

National Planning Policy Framework July 2021

National Planning Practice Guidance

Local:

Tendring District Local Plan 2013-2033 and Beyond Section 1

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP5 Open Space, Sports and Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP7 Self-Build and Custom-Built Homes
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL10 Renewable Energy Generation and Energy Efficiency Measures
- CP1 Sustainable Transport and Accessibility
- DI1 Infrastructure Delivery and Impact Mitigation

Supplementary Planning Documents

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)

Tendring Provision of Recreational Open Space for New Development SPD 2008

Essex Design Guide

Technical housing standards: nationally described space standard Published 27 March 2015

Local Planning Guidance

Essex County Council Parking Standards 2009

Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

In relation to housing supply:

The Framework requires Councils 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 of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if housing delivery over the previous three years has been substantially below (less than 75%) the housing

requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the 'tilted balance').

The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application relates to a site on the western side of Clacton Road, Weeley Heath adjacent to a collection of existing dwellings set back from Clacton Road known as 1 to 3 Barnfields. The site lies outside of any settlement development boundary (SDB) as defined within the adopted Tendring District Local Plan 2013-2033 and Beyond (TDLP). Although the site address falls within 'Weeley Heath', the site is closely related to the SDB of Little Clacton, approximately 150 metres to the southeast. The Weeley Heath SDB is approximately 360 metres to the north.

The application site extends approximately 0.1ha (0.27 acres) in size formally used as paddock land. There is a recently constructed dwelling to the south and 2 under construction to the north of the site (set out in further detail below).

Description of Proposal

The application seeks full planning permission for the erection of 1no. Self-build /Custom-build, detached three bedroom, chalet style dwelling. The dwelling is positioned with a north-easterly orientation, accessed via the existing access from Clacton Road with a shared drive (shared with the properties currently under construction opposite this site) leading to 3 parking spaces to the rear. The private garden area is located to the easterly side of the proposed dwelling enclosed by a combination of, 1.8 metre close boarded fencing, willow fencing and dense, mature trees.

The dwelling is 1.5 storey in scale with a central timber framed entrance porch, rendered dormer windows with tiled cill and window arch detailing.

Assessment

The main considerations in this instance are:

1. Planning and Appeal History;
2. Principle of Development – Self-build;
3. Scale, Layout and Appearance;
4. Residential Amenities;
5. Highway Safety, Access and Parking;
6. Drainage and Foul Sewage Disposal;
7. Trees and Landscaping;
8. Financial Contribution - Recreational Disturbance;
9. Financial Contribution - Open Space and Play Space;
10. Representations; and,
11. Conclusions and Recommendation.

1. Planning and Appeal History

Under planning reference 17/00430/OUT planning permission was refused on this site for the erection of three detached dwellings. The decision was upheld under appeal reference APP/P1560/W/18/3196180 where the inspector concluded that the proposed development by means of it subdividing the site, urbanising the area and potentially harming nearby trees, would harm the character and appearance of the area.

The appeal was dismissed on 2 grounds and this current application has been submitted with the intention to overcome the reasons for refusal, also having regard to the status of the local plan and more recent approval for 2 units under application references 18/01698/OUT and 20/01500/DETAIL (timeline of events summarised below):

17/00430/OUT - Outline planning application with all matters reserved for the residential development of three detached self-build or custom-built houses was refused on 18 August 2017:

- 1 Outside development boundary. Not an area planned for housing growth. LP7 (Self-building policy) of very limited weight as it was in draft form only and not fully adopted.
- 2 No tree report. Application failed to demonstrate that the development would be acceptable in terms of the impact on trees.

APP/P1560/W/18/3196180 – Dismissed at Appeal on 24 July 2018. At the time of the appeal (as seen at paragraph 3 of the appeal decision) the Inspector states that:

‘The Council has referred to policies from its Emerging Local Plan. The plan remains one that has not been examined and found sound. For this reason I am unable to accord any significant weight to its policies.’

Reasons for dismissal:

1. The site is located in the countryside for the purposes of the application of planning policy. It is outside of any defined settlement boundary within the existing and emerging local plan and is not allocated for development. Tending Local Plan (LP) Policy QL1 explains that the aim is to protect the countryside from encroachment and to focus development on larger urban areas and within development boundaries defined in the local plan. The aim and purpose of these policies is to direct development to the most suitable sites and to conserve and enhance the countryside for its own sake. The proposal would be in conflict with this policy (paragraph 5 of the appeal decision).
2. Since the application was determined a tree survey plan has been provided and a TPO placed on the Oak trees². Nonetheless, fundamentally the trees are visible within the area and contribute significantly to its overall character and appearance (paragraph 9 of the appeal decision). The information submitted with the application does not include detail of the impacts of the scheme on the crown spread or root protection areas of trees shown on the plan to be within the site and that would be retained. The indicative plans demonstrate that the built form of the houses would be close to some of the trees. Further, the trees would be within the new garden areas and there may be construction impacts that require consideration. In the absence of this information I cannot conclude that the construction or the occupation of the dwellings would not harm trees which make a positive contribution to the character and appearance of the area.

18/01698/OUT - Outline planning application with all matters reserved for the residential development of 0.3ha of land for 2no. self-build or custom-built houses approved on 3 March 2020.

Key points addressed within the officer report are:

- Under planning reference 17/00430/OUT planning permission was refused on this site for the erection of three detached dwellings. The decision was upheld under appeal reference APP/P1560/W/18/3196180 where the inspector concluded that the proposed development by means of it subdividing the site, urbanising the area and potentially harming nearby trees, would harm the character and appearance of the area.
- Within planning appeal decision APP/P1560/W/18/3196180 on this site, the inspector observed that the Council believed the site was isolated from facilities and services, likely leading to unsustainable travel patterns. However, it stated, "taking into account the presence of other dwellings and access to a choice of means of transport I do not consider that the sites location counts against it in this case." This decision therefore clarifies that the application site meets the social strand of sustainability.
- Within the appeal decision on this site for the previous application for three dwellings, the inspector referenced nearby dwellings "are generally large, detached and set within generous, wide or deep plots, and are arranged in a sporadic manner . . . the resultant plot sizes would be substantially smaller than the prevailing character of the area . . . Furthermore, the plans indicate that to accommodate the dwellings, a linear frontage would be created which would also be at odds with the sporadic development pattern." The inspector also explained the dwellings would be served by a small estate style road; "As a result the appeal site would be urbanised. Its existing open and undeveloped character would be eroded". Further concerns were raised in relation to a lack of information. It could not be concluded the works could be constructed without harming trees on the site which positively contribute to the character and appearance of the area.

Key amendments / additional information resulting in approval:

- Reduction from three dwellings to two.
- The indicative plan also shows the two dwellings being sited in a more random fashion, each with a much larger plot size.
- The 'estate style road' referenced by the Inspector has been removed, with access instead being provided via an existing access point.
- Plan supplied to show the Root Protection Areas (RPA's) of the protected trees.
- The plans were considered to overcome the Inspector's previous concerns and, subject to securing details on the protection of the Oaks by way of a planning condition, the harm identified was not sufficient to warrant refusal.

20/01500/DETAIL - Submission of reserved matters application pursuant to outline permission 18/01698/OUT to build 2 no. detached dwellings.

Key points within the officer report are:

- The proposed siting and layout is considered acceptable with the dwellings sited in a relaxed layout suitably spaced and set back from the proposed access road. The dwellings would be satisfactorily screened by existing trees, shrubs and vegetation along the east, west and southern boundaries of the site. The existing driveway that runs through the site and serves an existing building will be retained. The proposed dwellings will be positioned fronting this existing driveway to create an informal rural lane.
- The design approach is considered to be acceptable and represents an appropriate response to the semi-rural character of the locality. The introduction of specific design features such as porch canopies, horizontal brickwork detailing, exposed rafter feet and brick plinths also assists in enhancing the overall appearance of the development.
- In terms of scale, this section of Clacton Road includes a mix of semi-detached and chalet bungalow dwellings. In this context the proposed scheme has directly responded to the built variety within the surrounding area through the introduction of two bespoke dwellings of varying height.

Every case is dealt with on its merits at the time of the decision. In this instance, there has been a clear change in policy circumstances since the previous appeal and application, with the full adoption of Section 1 and Section 2 of the Tendring District Local Plan 2013-2033 and Beyond.

2. Principle of Development – Self-build

Policy SP3 of Section 1 of the adopted Tendring District Local Plan 2013-2033 and Beyond (TDLPS1) sets out the spatial strategy for North Essex and directs growth towards existing settlements. The application site lies outside of any defined settlement boundary being almost equidistance from Weeley Heath and Little Clacton Settlement Development Boundaries (SDB) as defined within the 2013-2033 Local Plan (closest to Little Clacton SDB). The proposed development would therefore extend beyond the area planned to provide growth for these settlements over the plan period.

However, as the application confirms the proposed development would include a self-build/custom built home. Therefore, Policy LP7 of Section 2 of the adopted Tendring District Local Plan 2013-2033 and Beyond (TDLPS2) is of primary relevance to the consideration of this application.

TDLPS2 Policy LP7 states that:

The Council will also consider, on their merits, proposals for small developments of new Self-Build and Custom-Built Homes on land outside of, but within a reasonable proximity to, settlement development boundaries, where they will still support a sustainable pattern of growth in the District and are brought forward by individuals or associates of individuals who will occupy those homes. All new dwellings on such developments must either:

- a. be safely accessible on foot within 600 metres of the edge of the settlement development boundary of one of the District's 'strategic urban settlements', or 'smaller urban settlements';*
- b. be safely accessible on foot within 400 metres of the edge of the settlement development boundary of one of the District's 'rural service centres'; or*
- c. involve the redevelopment of vacant or redundant previously developed land that can be shown, with evidence, to be unviable for employment use.*

The proposal shall have no significant material adverse impact on the landscape, residential amenity, highway safety, or the form and character of nearby settlements and shall be otherwise appropriate in scale and design for their location, having regard to other policies in this Local Plan.

Little Clacton is identified in Policy SPL1 as a 'Rural Service Centre'. The application site is less than 150 metres from the edge of the defined Settlement Development Boundary of Little Clacton, accessible via a roadside footpath.

The location of the proposed custom-build home is therefore compliant with adopted TDLP Policy LP7, part b.

The applicants, who will be the owners of the custom-build dwelling, will have the primary input into the dwellings final design and layout in accordance with Paragraph: 016 Reference ID: 57-016-20210208 (Revision date: 08 02 2021) of the Planning Practice Guidance and therefore the principle of development is acceptable in this location, subject to the detailed consideration below.

3. Scale, Layout and Appearance

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. 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. 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.

Application 17/00430/OUT (dismissed at appeal) included an indicative layout showing the proposed 3 dwellings in a linear arrangement, with a private driveway running parallel with Clacton Road and all 3 dwellings fronting Clacton Road. The application failed to demonstrate that 3 dwellings could be achieved on the site without resulting in harm to the character of the area. Application 18/01698/OUT (approved) included an indicative layout showing the proposed 2 dwellings backing onto Clacton Road, irregularly spaced and sited with an extended internal private driveway set well back from the main road. Application 20/01500/DETAIL was subsequently approved, broadly in line with the indicative plan submitted with the outline application, with the dwellings irregularly sited and facing into the site (backing onto Clacton Road). However, the dwellings were reduced in size / footprint and pushed further back into their plots leaving a portion of the overall site free of development. This vacant portion of land now forms this current application site. There is also a new bungalow development

The relaxed and suitably spaced layout is considered to appear in keeping with both the existing dwellings to the south of the site and the dwellings under construction to the north, as well as the wider mixed character of the area. The dwelling would be surrounded by development, almost fully screened by existing trees both along the boundary with Clacton Road and the boundary of the site itself. The proposed dwelling will utilise the new shared private driveway serving the 2 dwellings under construction. The new dwelling will be served by 3 parking bays located to the rear, fully screened by existing vegetation.

The proposed dwelling has been designed to be compatible but contrasting to the neighbouring approved dwellings to reinforce the clear built variety within the streetscene and its semi-rural location. The design approach is considered to be acceptable and represents an appropriate response to the semi-rural character of the locality. The introduction of specific design features such as the timber framed entrance porch, window cill and arch detailing and brick plinth enhances the overall appearance and quality of the development.

Having regard to the recent change in policy circumstances and the evolution of the site through planning and appeal decisions, for the reasons set out above the development is considered acceptable.

4. Residential Amenities

Section 1 Policy SP7 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 Part C seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. Furthermore, Policy LP 4 seeks to ensure that new dwellings are served by a private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area.

Officers consider that sufficient space is available on site to provide a development that will achieve an internal layout and separation distances that would not detract from the amenities of the future occupiers of the proposed dwellings and would provide private amenity areas in compliance with TDLP Policy LP 4.

5. Highway Safety, Access and Parking

Paragraph 108 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SPL3 Part B of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking.

Furthermore, Policy PPL10 of the Local Plan states that proposals for new development should consider the potential for renewable energy generation, appropriate to the site and its location, and should include renewable energy installations, or be designed to facilitate the retro-fitting of renewable energy installations. This policy requirement can be secured via a planning condition.

The EPOA Parking Standards 2009 require that for dwellings with 2 or more bedrooms, a minimum of 2 parking spaces is provided. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally.

As established under applications 18/01698/OUT and 20/01500/DETAIL, a visibility splay with dimensions of 2.4m by 90m can be achieved in both directions along Colchester Road. In accordance with the EPOA Parking Standards (2009), the proposed dwelling will provide a minimum of two on-site parking spaces, and a visitor space.

Essex County Council Highway Authority raise no objection subject to conditions, which will be imposed where relevant and necessary.

6. Drainage and Foul Sewage Disposal

Paragraph 170 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 180 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

Adopted Policy PPL5 of Section 2 of the Adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer.

The application form confirms that the development will be served by connection to the mains in compliance with the above-mentioned national and local plan policies.

7. Trees and Landscaping

Paragraph 131 of the NPPF sets out the importance of trees and the contribution they make to the character and quality of urban environments. It states that planning policies and decisions should ensure that opportunities are taken to incorporate trees in developments and that existing trees are retained wherever possible. Policy LP4 relates to housing layout and states; to ensure a positive contribution towards the District's 'sense of place', the design and layout of new residential developments will be expected to incorporate and maximise the use of green infrastructure, verges, trees and other vegetation.

The main body of the application site is undeveloped and is well treed on the perimeter of the site.

The trees on the boundary of the land make a moderate positive contribution to the appearance of the area and to the rural character of the site location.

In order to show the extent of the impact of the development proposal on the trees on the land and to show which trees that are to be retained and those that would need to be removed to facilitate the development proposal the applicant has provided a tree survey and report. This information is in accordance with BS5837 2012 Trees in relation to design demolition and construction: Recommendations. The tree report accurately shows the positions and crown spread of the trees as well as the Root Protection Areas (RPA's) of the retained trees.

The information provided by the applicant adequately demonstrates that the development proposal could be implemented without causing harm to retained trees and hedges.

8. 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. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) mitigation measures will need to be in place prior to occupation.

This residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, but is approximately 4.6 km from the Colne Estuary SPA and Ramsar and 5 km from the Hamford Water SPA and Ramsar sites. In order to ensure that the development would not adversely affect the integrity of Habitats sites in line with TDLP Section 2 Policy PPL4 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017 a proportionate financial contribution in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) is required.

The application is accompanied by a completed Unilateral Undertaking to secure this planning obligation in compliance with the above-identified TDLP policies and habitat regulations.

9. Financial Contribution - Open Space and Play Space

TDLP Section 2 Policy HP5 states that the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update. TDLP Section 2 Policy DI1 states that all new development should be supported by, and have good access to, all necessary infrastructure. Where a development proposal requires additional infrastructure capacity to be deemed acceptable, mitigation measures must be agreed with the Local Planning Authority and the appropriate infrastructure provider. Such measures may include financial contributions towards the delivery of improvements, expansion or new open spaces and/or sports facilities and the maintenance thereof.

Consultation has been undertaken with the Council's Public Realm Team who have identified a current deficit of -2.18 hectares of equipped play and formal open space in Weeley. Although there is a deficit of play and open space in Weeley Heath, it is not thought that there will be an impact on these facilities as a result of this development. Therefore, no contribution is being requested on this occasion.

10. Representations

Weeley Parish Council raises no objection subject to:

- The access road to the dwellings meeting the prescribed standards to service the number of dwellings; and,
- As many of the trees on site being retained.

1 letter of representation has been received from a local resident. The concerns raised can be summarised and addressed as follows (officer response in italics):

- Original reasons for refusal for 3 units still valid.

This is addressed in the main report above.

- Adopted local plan should stop this development now we have a housing supply.

The application is considered acceptable under adopted Local Plan Policy LP7 as set out in the main report above.

- Loss of important trees.

Trees and Landscaping are considered in the main report above.

- Houses are too large for the plots.
- Layout, positioning and spacing not in keeping with existing properties.

Scale, layout and appearance are addressed in the main report above.

- Removal of roadside vegetation and replacement with a fence is harmful to the character of Weeley Heath.

These works do not form part of this application proposal.

11. Conclusions and Recommendation

For the reasons set out above, the proposed development will not result in any overriding harm that would warrant refusal of planning permission. The application is therefore recommended for approval subject to conditions.

6. Recommendation

Full - Approval

7. Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and supporting documents:

1212A . L . 001 Amended Site Plan
1212A . L . 006 (A) Proposed Site Layout Plan
1212A . L . 010 Plot 3 - Floor Plans and Elevations

Reason - For the avoidance of doubt and in the interests of proper planning.

- 3 Prior to the commencement of any above ground works, precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in the construction of the development hereby permitted shall be submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - Materials are a visually essential requirement to ensure a quality development and insufficient information has been provided within the application.

- 4 The development hereby approved shall be carried out in strict accordance with the Arboricultural Impact Assessment and Preliminary Method Statements TSarb5640122 Issue No 1 dated 29th January 2022 and accompanying Appendices 1 – 6.

Reason - To ensure that the trees to be retained are protected throughout construction, in the interests of visual amenity, the character of the area and the quality of the development.

- 5 The approved screen walls and fences as shown on approved Drawing number 1212A . L . 006 (A) shall be erected prior to the occupation of the dwelling and thereafter retained in the approved form unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure that the development is appropriate within its setting as insufficient details have been provided with the application.

- 6 Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), other than those shown on the approved drawing number 1212A . L . 006 (A), no fences, walls or other means of enclosures shall be erected forward of the front elevation of the dwelling hereby approved.

Reason – In the interests of visual amenity and the quality of the development.

- 7 All hard surface areas or development within the root protection area of the retained trees shall be constructed using no dig technology.

Reason - To ensure the longevity of the retained tree in the interests of visual amenity.

- 8 The removal of any vegetation shall only be carried out outside of the bird nesting season (March to August inclusive).

Reason - To ensure the protection of birds potentially nesting on site.

- 9 All new parking areas and areas of hardstanding shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the site area.

Reason - In the interests of sustainable development and to minimise the risk of surface water flooding.

- 10 Prior to the occupation of the proposed dwelling, 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.

- 11 The proposed dwelling shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been hard surfaced, sealed and if required marked out in parking bays. 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.

- 12 As indicated on drawing no. 1212A . L . 006 (A) 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.

- 13 Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres in accordance with the EPOA Parking Standards.

Reason - To ensure adequate space for parking off the highway is provided in the interest of highway safety.

- 14 Prior to the occupation of the dwelling hereby approved, a scheme for the provision of electric vehicle charging facilities shall have first been submitted to and approved in writing by the Local Planning Authority. The charging facilities shall be installed in accordance with the approved details and retained in working order.

Reason - In order to promote sustainable transport.

- 15 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.

- 16 No development shall take place, including any ground works or demolition, until a Construction Management Plan and associated site layout 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:

- safe access to/from the site;
- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- wheel washing facilities;
- measures to control the emission of dust and dirt during demolition and construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- details of hours of deliveries relating to the demolition and construction of the development;
- details of hours of site clearance or construction;
- a scheme to control noise and vibration during the demolition and construction phase, including details of any piling operations.

Reason - In the interests of residential amenity and highway safety.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Highways Informatives

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

2: Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway 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.

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: 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.

5: 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.

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017. Please note that any subsequent variation / removal of condition applications (s73 applications) will require a new legal agreement to secure this obligation unless the development has commenced (subject to all necessary condition discharges) and the contribution has already been paid.

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