

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	14/09/22
Planning Development Manager authorisation:	JJ	14/09/2022
Admin checks / despatch completed	ER	14/09/2022
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Application: 22/01171/FUL **Town / Parish:** Harwich Town Council

Applicant: Boulding and Moore Ltd

Address: 22 Vaux Avenue Dovercourt Harwich

Development: Proposed erection of a single storey two-bedroom dwelling.

1. Town / Parish Council

Harwich Town Council
07.09.2022

Harwich Town Council objects to this application in light of the proposed loss of amenity space and overdevelopment of the area.

In relation to the amenity space, the council objects on the grounds as laid out in the Officer's report in 2018.

2. Consultation Responses

ECC Highways Dept
09.09.2022

The information that was submitted in association with the application has been fully considered by the Highway Authority. 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 the proposal is similar to a previous application, planning Ref: 18/00215/OUT that the Highway Authority did not raise an objection to. The proposal will be served from an existing private driveway situated at the end of the private drive; the drive is to be extended and retains adequate room and provision for off street parking and turning, for the host and proposed dwelling. It is also noted that the existing attached out building located to the side of the existing dwelling is to be demolished, 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. As indicated on drawing no. 2019017/10 Rev B and prior to occupation of the dwelling a minimum size 5 turning head (8m x 8m) 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.

2. No unbound material shall be used in the surface treatment of the vehicular access throughout.

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

3. 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.

4. The proposed dwelling shall not be occupied until such time as it has been provided with 2 parking spaces and each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres. 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.

5. 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.

6. 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.

7. 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: 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: 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. Therefore, 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.

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.

UU Open Spaces
07.09.2022

Response from Public Realm
Open Space & Play

Application Details

Application No: 22/01171/FUL

Site Address: 22 Vaux Avenue Dovercourt Harwich Essex

Description of Development: Proposed erection of a single storey two-bedroom dwelling

Current Position

There is currently a deficit of 12.59 hectares of equipped play in Harwich and Dovercourt.

Recommendation

No contribution is being requested on this occasion.

Tree & Landscape Officer
31.08.2022

The front boundary of the existing garden forming part of application site is demarcated by a young Laurel hedge (*Prunus laurocerasus*). In the rear garden there is an established Japanese Maple (*Acer japonica*) that is an attractive specimen but which does not feature prominently in the public realm.

The vegetation on the land is not considered to be a significant constraint on the development potential of the land.

Details of soft landscaping of the front garden should be secured by a condition attached to any planning permission that may be granted and should include tree planting to soften, screen and enhance the appearance of the development.

3. Planning History

18/00215/OUT	Outline application for residential development of a single dwelling, including layout, with primary access off of Vaux Avenue - all other matters reserved.	Refused (dismissed at appeal)	10.04.2018
19/00169/FUL	Proposed garage conversion to living accommodation.	Approved	21.03.2019

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

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 (adopted January 2022)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

DI1 Infrastructure Delivery and Impact Mitigation

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

HP4 Safeguarded Local Greenspace

PPL3 The Rural Landscape

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

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

Site Description

The application site relates to the land to the eastern side of Number 22 Vaux Avenue, within the parish of Dovercourt. Almost the entire site appears to form part of the front and side garden areas of Number 22 however the majority of these areas are indicated on the original consent as open amenity land and lies directly adjacent to the pedestrian walkway at the end of this cul-de-sac. The application site and the Vaux Avenue estate are located within the Settlement Development Boundary of Dovercourt as agreed within the Adopted Local Plan.

The vast majority of the site is located within an area designated as Safeguarded Open Space. The character of the site is largely open grassed land to the front, with a 1.8 metre high close

boarded fence erected across the middle of the site, to allow for the private use of the area by occupants of Number 22.

Description of Proposal

This application seeks full planning permission for the erection of one detached residential dwelling sited to the east of Number 22 Vaux Avenue, which will be single storey and served by two bedrooms. The proposal would also see the demolition of the existing outbuilding to the side of 22 Vaux Avenue.

Site History

Under planning reference 18/00215/OUT, outline planning permission was previously refused on this site for the erection of a single dwelling. The reason for refusal was that the introduction of a detached dwelling in this location, together with its extended hard surfaced access, parking and turning areas would compromise the spacious character of the locality and increase the density of built form to the severe detriment of the character of the development overall, and would result in the loss of part of the defined amenity area and set a harmful precedent for the further erosion of the spacious character around the walkway areas.

In October 2018, under planning appeal reference APP/P1560/W/18/3202515, the application was then dismissed at appeal, with the Inspector concluding that the proposed development would have a harmful effect on the character and appearance of the surrounding area.

The application site and surrounding estate is also subject of an 'open plan' condition imposed on the original consent (TEN/1034/86) for the development. Within this, Condition 7 states:

'Notwithstanding the provisions of Article 3 of the Town and Country Planning General Development Order 1977 as amended, no wall, fence or other permanent means of enclosure shall be formed in front of the forward most part of any wall of any dwelling house or screen fence or wall and the highway without express planning permission.'

Reason - To maintain the area in front of the dwelling(s) as an open area in the interest of local amenity.'

Furthermore, Condition 9 states:

'The area of amenity space which forms part of this application shall be landscaped and the work shall be carried out in accordance with a detailed scheme to be submitted to and approved by the district planning authority prior to the commencement of work. In addition the scheme shall be implemented to the satisfaction of the district planning authority during the first planting season following completion of the adjoining dwellings.'

Reason - To enhance the appearance of the development.'

Condition 4 required the submission of the landscaping scheme *'to enhance the appearance of the development.'*

Assessment

1. Principle of Development

The site is located within the Settlement Development Boundary (SDB) for Dovercourt, as established in the adopted local plan. Adopted Policy SPL2 states that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local plan policies. As such, at an overarching high level, the principle of residential development on the site is acceptable, subject to the detailed considerations below.

2. Design, Layout and Appearance

Paragraph 130 of the National Planning Policy Framework (NPPF) (2021) 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.

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. Adopted Policy SPL3 Part A (b) requires that development relates well to its site and surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials.

The dwelling is proposed to be sited adjacent to the east of Number 22 Vaux Avenue, and is to be set slightly further forward than all of the existing properties located to the west. Given that the dwelling is only set forward to a minor extent, it will broadly accord with the existing pattern of development along this section of Vaux Avenue and will be seen as a logical continuation of the existing properties, and there are therefore no significant concerns in relation to the layout of the dwelling.

In respect of the design, the dwelling is to be a single storey bungalow. Given the character of the immediate area, the principle of a single storey property is supported. Furthermore, while the design is relatively bland, it does include features to help break up its bulk such as a front gable and canopy. Given this and the use of in-keeping materials there are no objections to the design of the property.

The Inspector for the previous appeal decision stated *"it may be the case that the appeal site has no public right of access, but nevertheless it forms part of the open landscaped area next to the footpaths. Whether or not the grass areas alongside the footpaths were part of the original design for the estate, they create a pleasant open and spacious setting for properties in this location"* and *"the dwelling would erode space to the side of No 22 adjacent to the footpath to Musgrave Close. This would have a negative effect on the spacious qualities of the area by the introduction of built form along this footpath. Moreover, it is likely that tall boundary treatment would be necessary to enclose the side and rear of the new dwelling for security purposes. Even as a hedgerow, this would further erode the open and spacious nature of this location."*

Within the supporting statement, the applicant has sought to explain how the proposed dwelling overcomes the concerns raised by the Inspector. In particular they have confirmed that the previous distance to the side boundary was 1 metre, and now ranges between 3.1 and 3.9 metres. In addition, it is stated that as the fencing has been in situ in excess of four years it is now lawful, and therefore its retention would cause no harm to the spacious character of the area. While it is acknowledged the fencing is currently in situ, Officers are also aware of action undertaken by the Planning Enforcement Team following the determination of the previous planning application (between March 2018 and January 2019), which ultimately resulted in the fencing forward of the dwelling being removed due to being in breach of the original planning consent and concerns it would have to the character and appearance of the area.

Taking all of the above into account, while it is acknowledged that there will be an increased separation distance to the side, eastern, boundary Officers maintain the concerns raised by the Inspector and consider that the introduction of a dwelling in this location would continue to erode the space between the footpath and Number 22, which would negatively harm the spacious qualities of the area. While the boundary treatment is in situ the Inspector was clear that even if the boundary treatment was a hedgerow it would still contribute to the further erosion of the open and spacious nature of this location, and so limited weight is given to the existence of this unsuitable fencing.

In addition the Inspector, when discussing access into the site, stated *"vehicular access to properties is low-key and via access drives between the properties and grass areas. This layout results in an open, green and spacious character and appearance between properties on this section of Vaux Avenue leading through to Bexley Avenue."* Against this context, it is

acknowledged that within their supporting statement, the applicant considers that the level of hardstanding is kept to a minimum in order to retain the spacious qualities of this area of the site. However, Officers do not agree with this assessment, and have strong concerns that the inclusion of the additional hardstanding to serve both the two necessary parking spaces, and the turning area, further add to the overall loss of the existing spacious character.

Officers previously raised further concerns regarding the harmful precedent for the further erosion of the spacious character that this development could cause. While the Inspector did not specifically dispute this point, they did highlight that it had not been demonstrated that there are identical scenarios elsewhere on the estate. This therefore does not form part of the recommended reason for refusal.

Furthermore, the dwellings are served by a private amenity space of a size and configuration that will appropriately meet the needs and expectations of the future occupants and which is commensurate to the size of dwelling and the character of the area, in accordance with Policy LP4 of the 2013-2033 Local Plan.

3. Loss of Safeguarded Open Space

The application submission indicates that the dwelling is to be sited in an area allocated as Safeguarded Open Space within the recently Adopted Local Plan.

Adopted Policy HP4 (Open Space) confirms that development that would result in the loss of the whole or part of areas designated as Safeguarded Open Space will not be permitted unless the following criteria are met:

- a) the site is replaced by the provision of new site at least equal in quality and size and accessible to the community, which the existing site serves;
- b) it is demonstrated that there is no longer a demand for the existing site;
- c) the site is not appropriate for other open space functions; and
- d. the development of the site would not result in the loss of an area important to visual amenity.

While it is acknowledged that the land is designated as Safeguarded Open Space, this is limited to visual openness only, given that the site is within private ownership and is fully enclosed by an existing hedgerow, and therefore it does not provide for a useable space that has wider public benefits. However, as highlighted previously the proposal would negatively harm the spacious qualities and character of the area, and therefore will result in the loss of an area important to visual amenity, thereby failing to accord with criterion d) above.

4. Highway Safety

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. Paragraph 111 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Adopted Policy CP1 (Sustainable Transport and Accessibility) states proposals for new development must be sustainable in terms of transport and accessibility and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport.

Essex Highways Authority have been consulted and have stated that they raise no objections to the proposed development, subject to a series of planning conditions relating to the turning head, the use of no unbound materials, boundary planting, cycle parking provision, the storage of building materials, and the submission of a Residential Travel Information Pack.

Furthermore, Essex Car Parking Standards (2009) state that for residential dwellings with two or more bedrooms, there should be provision for two parking spaces measuring 5.5m x 2.9m or, if being used as one of the parking spaces, garages should have minimum internal measurements of 7m x 3m. The submitted plans demonstrate that this achieved for the new dwelling, as well as for Number 22.

5. Impacts to Neighbouring Amenities

Paragraph 130 of the National Planning Policy Framework (2021) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Policy SP7 of Section 1 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.

The nearest neighbouring property most likely to be impacted by the proposed development is Number 22 Vaux Avenue, adjacent to the west. However, the submitted information demonstrates a separation distance of 2.2 metres. Given this, and that the proposed dwelling is single storey, while it is acknowledged the dwelling will be highly visible there is not considered to be significant harm to neighbouring amenities in respect of overlooking, loss of sunlight/daylight or the dwelling appearing oppressive.

In addition, the amenities of Number 7 Musgrave Close, to the south, must be considered. However, there is significant separation distance which ensures the proposal would have only a minor impact to existing amenities, and certainly not to a level that would justify recommending a reason for refusal.

6. Tree Impacts

The Council's Tree and Landscape Officer has been consulted, and has stated the following:

"The front boundary of the existing garden forming part of application site is demarcated by a young Laurel hedge (Prunus laurocerasus). In the rear garden there is an established Japanese Maple (Acer japonica) that is an attractive specimen but which does not feature prominently in the public realm.

The vegetation on the land is not considered to be a significant constraint on the development potential of the land.

Details of soft landscaping of the front garden should be secured by a condition attached to any planning permission that may be granted and should include tree planting to soften, screen and enhance the appearance of the development."

Therefore in the event of the application being recommended for approval, conditions would be attached to secure details of soft landscaping.

7. Drainage

Paragraph 174 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 185 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.

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. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no

harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.

The agent for the application has confirmed on the application form that the development would be connected to the existing public foul sewer. This is in accordance with the above policy requirements and is therefore considered to be acceptable in the event of an approval.

8. Financial Contributions - Open Space and RAMS

(i) Open Space

Paragraph 55 of the National Planning Policy Framework (2021) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 57 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

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. Financial contributions will also be sought through s106 legal agreements (or an appropriate alternative mechanism) towards ongoing maintenance.

In line with the requirements of Section 2 Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that there is currently a deficit of 12.59 hectares of equipped play in Harwich and Dovercourt, however no contribution is requested on this occasion.

(ii) Habitat Regulations Assessment

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

The application scheme proposes a residential on a site that lies within the Zone of Influence (Zol) being approximately 800 metres away from Hamford Water SPA and Ramsar. New housing development within the Zol would be likely to increase the number of recreational visitors to these sites and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A completed unilateral undertaking has not been provided to secure this legal obligation. As submitted, there is no certainty that the development would not adversely affect the integrity of European Designated Sites and the application is therefore contrary to Policy PPL4 of the Adopted Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Other Considerations

Harwich Town Council objects to this application in light of the proposed loss of amenity space and overdevelopment of the area, as referred to within the previous planning application on this site.

Two letters of objection, as well as a further objection letter signed on behalf of 16 local residents, have been received with concerns relating to the following issues:

1. Previous planning application was considered to be over-development;
2. Inappropriate parking provision;
3. Site is amenity land and forms part of landscaped area;
4. Harm to character and appearance of the area;
5. Noise pollution; and
6. Harm to neighbours.

In answer to this, all of the above issues have been addressed within the main body of the report above.

Conclusion

The application site falls within the recognised Settlement Development Boundary for Dovercourt within the Adopted Local Plan, and therefore the principle of residential development in this location is acceptable. Further, there is not considered to be significant harm to neighbouring amenities, and Essex Highways Authority offer no objections. However, despite the efforts to overcome concerns previously raised by Officers and by the Inspector at appeal stage, it is still considered that the proposed development, through the dwelling as well as the associated hardstanding, would be harmful to the openness of the area, and accordingly the application is recommended for refusal.

6. Recommendation

Refusal.

7. Reasons for Refusal

- 1 Paragraph 130 of the National Planning Policy Framework (NPPF) (2021) 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.

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. Adopted Policy SPL3 Part A (b) requires that development relates well to its site and surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials. Adopted policy HP4 states development that would result in the loss of the whole or part of areas designated as Safeguarded Open Space will not be permitted unless, amongst other things, the development of the site would not result in the loss of an area important to visual amenity.

In this instance the introduction of a detached dwelling together with its extended hard surfaced access, parking and turning areas, would erode the spacious character of the locality and increase the density of built form to the severe detriment of the character of the surrounding area.

The proposal is therefore contrary to the aims and aspirations of the aforementioned national and local policies.

- 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 residential on a site that lies within the Zone of Influence (Zoi) being approximately 800 metres away from Hamford Water SPA and Ramsar. New housing development within the Zoi would be likely to increase the number of recreational visitors to these sites and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A completed unilateral undertaking has not been provided to secure this legal obligation. As submitted, there is no certainty that the development would not adversely affect the integrity of European Designated Sites and the application is therefore contrary to Policy PPL4 of the Adopted Tendring District Local Plan 2013-2033 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.