

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	04/05/2022
Planning Development Manager authorisation:	JJ	04/05/2022
Admin checks / despatch completed	ER	04/05/2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	04.05.2022

Application: 22/00299/FUL **Town / Parish:** Weeley Parish Council

Applicant: Harry Wenden, Emily Crave, Hannah Craven and John Philips

Address: Weeley House 70 The Street Weeley

Development: Proposed one detached house.

1. Town / Parish Council

Weeley Parish Council
23.03.2022

Weeley Parish Council considered this application at its meeting on 21 March 2022. It resolved to object to the application for the reasons set out below.

It has been noted on previous applications that the access and egress onto a major carriageway which carries the national speed limit at that point is considered dangerous and if allowed would create a precedent for other properties whose gardens back onto the B1441 to do the same. From a road safety point of view this would be catastrophic. With the increase in housing developments in the area, the traffic levels are only going to increase, compounding the danger.

The tree which has fallen and is quoted on the application as creating 'a natural entry point for access from the main road' is earmarked, amongst others, for replacement as confirmed by the arboriculturist at Place Services for ECC.

This is back land development.

The proposed building is totally out of keeping with the historical importance of Weeley House and would have no affinity with the existing character of the area. It would look out of place, as noted by the inspector in the appeal statement.

There have been two previous applications for building on this site - 17/01567/OUT and 19/01537/FUL, both of which were refused. The second one went to appeal - APP/P1560/W/17/3192362 which was also dismissed.

2. Consultation Responses

ECC Highways Dept
08.04.2022

The information submitted with the application has been fully assessed by the Highway Authority and conclusions reached based on a desktop study in conjunction with a site visit. The site is situated on the B1441 Weeley Bypass that is subject to a de-restricted speed limit. The proposal would introduce a new access onto the B1441 Weeley Bypass. It is noted that a similar application was made for this site in 2017 (17/01567/FUL) and again in 2019 (19/01537/FUL) which involved two new dwellings and one dwelling respectively. The applications did not attract an objection from the Highway Authority. Both applications were subsequently refused and dismissed on appeal, but only on the grounds of the design and layout of the development. No mention was made by the District Council in respect of highway matters, nor did the Inspectors raise any concerns towards the access within their decision. The latest proposal is again for one new dwelling; the application now submitted shows no change to the proposed access.

The site can provide:

- 1) Turning facilities and parking spaces,
- 2) Visibility splays
- 3) Appropriate surfacing
- 4) Forward visibility for traffic already in the highway

The recent collision data shows there have been no reported accidents on Weeley Bypass in the vicinity of the proposed site access for the most recent three-year period. In this regard an 'overriding safety concern' cannot be proven. Considering these factors:

From a highway and transportation perspective and considering the site history the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. Prior to occupation of the new 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.
2. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.
3. Prior to occupation of the new dwelling, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres within the site, tapering one-sided over the next 6 metres to any lesser width and provided with an appropriate dropped kerb crossing of the highway verge to the satisfaction of the Local Planning Authority.
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.

4. Prior to occupation of the new dwelling, the existing centre hatching opposite the proposed vehicular access on the Weeley Bypass shall be amended, removing the hatching and one side of the centre line for the length of the drop kerb for the new vehicular access to the satisfaction of the Local Planning Authority.

Reason: To indicate and highlight where the new private vehicular access is being located on the Weeley Bypass, in the interests of highway safety in accordance with policy DM1.

5. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

6. All double garages should have a minimum internal measurement of 7m x 5.5m.

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8.

7. 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.

8. 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/carriageway.

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 vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

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: Any work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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

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.

Essex County Council
Heritage
04.04.2022

The application is for the construction of one detached house within the rear garden of Weeley House. This is a revised proposal of outline application 17/01567/OUT for the construction of two detached dwellings and double garage on the same site, which was refused and subsequently dismissed on appeal, and of following application 19/01537/FUL for a scheme similar to the current proposal, which was refused in 2019.

The proposed site is located within the rear garden of Grade II listed Weeley House (List Entry ID:1235273). The building is an eighteenth century house of high status and the most historically prominent building in this area of The Street.

As previously advised, historic maps of the site show the historic configuration of a large rear plot which extended beyond the existing bypass and has since been truncated. The existing rear garden is of an appropriate size as one would expect to see and experience with a house of this status and provides some mitigation from the bypass which detracts from the building's setting. The proposed development would result in a further truncated rear garden plot which will detract from the setting of the listed building and how this contributes to its significance.

However, the appointed inspector for appeal APP/P1560/W/17/3192362 for application Ref 17/01567/OUT agreed with the Council regarding the lack of impact of the proposal on the setting of Grade II Listed Weeley House. Therefore,

I will have no objection to this application.

3. Planning History

94/00688/OUT	(Gardens of Weeley House, The Street, Weeley) Five one-bedroom Retirement Homes	Refused	03.08.1994
94/01254/OUT	(Garden of Weeley House, The Street, Weeley) 5 one bedroom retirement homes	Refused	24.01.1995
97/00728/FUL	(Weeley House, 70 The Street, Weeley) Change of use of former shop area to be incorporated into existing dwelling	Withdrawn	20.11.1998

16/00021/LUEX	Change of use of shop to residential.		01.03.2016
17/01567/OUT	Proposed detached dwellings & double garage on land to the rear of Weeley House.	Refused	01.12.2017
18/01848/LBC	Proposed replacement of top three sash windows on East Side facia.	Approved	
19/00802/LBC	Proposed replacement of upper 3 sash windows on East Side facia.	Approved	09.08.2019
19/01537/FUL	Proposed detached house.	Refused	03.02.2020
20/00117/LBC	Proposed brickwork repairs to facade and parapet wall.	Approved	26.03.2020
20/01578/FUL	Proposed internal alterations and thermal upgrade to loft space.	Approved	27.01.2021
20/01579/LBC	Proposed internal alterations and thermal upgrade to loft space.	Approved	27.01.2021
21/00600/LBC	Proposed structural repairs to roof and existing mid-span floor beams.	Approved	24.05.2021

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

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 and Recreation Facilities

LP1 Housing Supply

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity
PPL5 Water Conservation, Drainage and Sewerage
PPL9 Listed Buildings
PPL10 Renewable Energy Generation
SPL1 Managing Growth
SPL3 Sustainable Design
Local Planning Guidance
CP1 Sustainable Transport and Accessibility

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 site is located on the eastern side of the Weeley Bypass (B1441) to the western end of the rear garden serving Weeley House, which is a Grade II Listed building that fronts onto The Street. Weeley House is a Georgian former farmhouse constructed from red brickwork and clay tiled hipped roof. The rear garden serving Weeley House is bordered to the west by Weeley Bypass. The application site is located inside the settlement boundary of Weeley. The site is not located in a conservation area.

Proposal

This application seeks planning permission for the erection of a detached house and double garage with an access onto Weeley Bypass.

Site History

Under planning reference 17/01567/OUT, planning permission was refused on this site for two dwellings with access onto the Weeley Bypass. The Council refused the application as there would be direct access from Weeley Bypass as well as the eastern side of the bypass being characterised by various forms of fencing and vegetation that encloses the rear gardens of properties located within Hilltop Rise, Hilltop Crescent and sections of The Street. It was determined that two dwellings in this location would appear incongruous within the street scene and out of keeping with the prevailing pattern of built form in the village as well as setting an undesirable precedent.

The application was dismissed at appeal under appeal reference APP/P1560/W/17/3192362 in May 2018. The appeal was dismissed as the Inspector concluded that the proposal would harm the character and appearance of the area.

Following on from this planning permission was refused in February 2020 under application 19/01537/FUL for the erection of a detached house with access onto the Weeley bypass due to the harm it would cause upon the character and appearance of the area as well as the lack of a RAMS contribution. This application was not appealed by the applicant.

Assessment

1. Principle of development

The site lies within the Settlement Development Boundary of Weeley as defined within the 2013-2033 Local Plan. The principle of residential development on the site is therefore acceptable subject to the relevant detailed considerations set out below.

2. 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 130 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. Furthermore, Policy PPL3 of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond seek to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.

Furthermore, relevant local policy expect dwellings to be served by 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.

The plans submitted show a 3 bedroom dwelling, which will be a detached one and a half storey dwelling of a traditional appearance and will be accessed via Weeley Bypass.

It is considered that the proposed dwelling would not create a cramped form of development as it would retain important gaps to the boundaries. In terms of private amenity space, sufficient private amenity space is provided to serve the new dwelling and sufficient amenity space is retained to serve Weeley House.

This latest development proposal would also take direct access from and front onto the B1441 (Weeley Bypass) (similar to the scheme dismissed at appeal mentioned above). Indeed within paragraph 5 of the appeal decision, the planning inspector states *that 'I understand that The Street is characterised by frontage development. There are cul de sacs and other roads from it which also contain frontage buildings. By contrast the appeal site would be formed from part of the rear garden of Weeley House. This would give it a frontage to the Weeley bypass (B1441). There are no other plots where dwellings that front onto the bypass. The character of the area is rear garden fences and footpath and verge associated with the road'. Furthermore, the Inspector states 'I appreciate that the rear of the houses are glimpsed but there is not a strong road frontage of dwellings'. The Inspector concluded that the proposal 'would not have any physical or visual affinity with the existing character and would appear out of place. This is not something that landscaping would change'.*

It is noted that the appeal decision refers to two new dwellings however the siting and access remains in a similar position to the current live application which also fronts Weeley Bypass – as such, these elements are the similar to the appeal scheme and therefore comparable. The scheme will remain at odds with the character of the area as it would not have any physical or visual affinity with the existing character and would continue to appear out of place.

3. Impact upon 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 SPL3 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. Paragraph 130 f) of the Framework requires that planning decisions should create places with a high standard of amenity for existing and future users.

As the proposed dwelling is located within the rear garden of 'Weeley House', there will be views from the neighbouring dwellings, however due to the sufficient distance as well as the proposed landscaping, it is considered that the one and half storey dwelling will not cause any material harm to the impact upon neighbouring amenities in terms of loss of light, outlook or privacy.

The proposal retains 50 metres which is above the recommended 25 metres back to back distance as detailed in the Essex Design Guide and therefore it is considered that the proposal will not cause any material loss of privacy between Weeley House and the proposed dwelling.

4. Impact upon Setting of a Listed Building

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act imposes a statutory duty on the Local Planning Authority to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest.

Paragraph 202 of the Framework adds that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Paragraph 194 of the National Planning Policy Framework ("the Framework") requires applicants to describe the significance of any heritage assets affected. This requirement is reflected by Policy PPL9 of the Tendring District Council Local Plan 2013-2033. The policy also confirms that the development should be of a scale, design and use that respects the listed building and its setting. The application site is to the rear of a Grade II Listed Building, Weeley House. Place Services historic environment team have been consulted on this application and has stated that the proposed site is located within the rear garden of Grade II listed Weeley House (List Entry ID:1235273). The building is an eighteenth century house of high status and the most historically prominent building in this area of The Street.

As previously advised, historic maps of the site show the historic configuration of a large rear plot which extended beyond the existing bypass and has since been truncated. The existing rear garden is of an appropriate size as one would expect to see and experience with a house of this status and provides some mitigation from the bypass which detracts from the building's setting.

The proposed development would result in a further truncated rear garden plot which will detract from the setting of the listed building and how this contributes to its significance.

However, the appointed inspector for appeal APP/P1560/W/17/3192362 for application Ref 17/01567/OUT agreed with the Council regarding the lack of impact of the proposal on the setting of Grade II Listed Weeley House. Therefore, the team have no objection to this application and officers agree with this position.

5. Highway Safety and Parking Provision

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. 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.

The EPOA Parking Standards 2009 require that for dwellings with 2 or more bedrooms, a minimum of 2 parking spaces is required. 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. The proposed plan shows a garage and parking bays.

Essex Highway Authority have been consulted on this application and have stated that the site is situated on the B1441 Weeley Bypass that is subject to a de-restricted speed limit. The proposal would introduce a new access onto the B1441 Weeley Bypass. It is noted that a similar application was made for this site in 2017 (17/01567/FUL) and again in 2019 (19/01537/FUL) which involved two new dwellings and one dwelling respectively. The applications did not attract an objection from the Highway Authority. Both applications were subsequently refused and dismissed on appeal, but only on the grounds of the design and layout of the development. No mention was made by the District Council in respect of highway matters, nor did the Inspectors raise any concerns towards the access within their decision. The latest proposal is again for one new dwelling; the application now submitted shows no change to the proposed access.

The site can provide:

- 1) Turning facilities and parking spaces,
- 2) Visibility splays
- 3) Appropriate surfacing
- 4) Forward visibility for traffic already in the highway

The recent collision data shows there have been no reported accidents on Weeley Bypass in the vicinity of the proposed site access for the most recent three-year period. In this regard an 'overriding safety concern' cannot be proven. The highway authority therefore have no objections subject to conditions relating to vehicular turning facility, no unbound materials, private drive, vehicular access, parking spaces, garage measurements, cycle parking and storage of building materials.

The parking space measurements and garage measurements will not be imposed as conditions as the site plan demonstrates that sufficient parking can be achieved in line with Essex Parking Standards. The proposed double garage measures 7 metres by 7.5 metres with an overall height of 5.3. The proposed garage is therefore above the Essex Parking Standard requirement of 7 metres by 3 metres and the condition relating to garage measurements will not be required. The storage of building materials will be imposed as an informative. It is therefore considered that the site is acceptable in terms of highway safety subject to conditions.

6. 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.

In terms of the impact of the development proposal on the Lombardy Poplars situated in the highway land either side of the proposed new access to the application site there is sufficient space for the new vehicular access to be constructed without causing harm to tree roots - as stated in section 5.5 of the Planning Statement submitted in support of the application. A condition will be imposed to secure details of the physical protection of the Root Protection Areas of the retained trees.

7. Financial Contributions - Open Space

The Council's Open Spaces Strategy (2017) identifies the nature of any existing surpluses and deficiencies and provides size and quality standards for the provision of future open spaces and green infrastructure in the District. This is reflected in the Policies HP3, HP4 and HP5 of the 2013-2033 Local Plan. Specifically, Policy HP 5 states that, where new development would be better served by existing open space within an accessible distance, a financial contribution in lieu of on-site provision will be sought towards any necessary improvement or expansion of existing facilities. There is currently a deficit of -2.18 hectares of equipped play and formal open space in Weeley. No contribution is being requested on this occasion. However should there be further development a contribution may be needed.

8. Financial Contributions – RAMS

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

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 sited approximately 4.7 km way from Hamford Water RAMSAR Site and SPA.. In accordance with Natural England's advice there is no requirement to consult them due to the specified mitigation. New housing development within the Zol would be likely to increase the number of recreational visitors to the Hamford Water, and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

In the absence of a unilateral undertaking in accordance with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD, the Council cannot be certain that the proposal would not harm habitat sites of ecological interest. The proposal is therefore contrary to adopted Policy SP2 and Section 15 of the National Planning Policy Framework.

9. Drainage and Foul Sewage Disposal

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 application form accompanying the application has stated 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

10. Climate Change and Renewable Energy/Energy Efficiency

Policy SPL3, Part B criterion d), states that an applicant must demonstrate how the proposal will minimise the production of greenhouse gases and impact on climate change, as per the Building Regulations prevailing at the time and policies and requirements in the Local Plan. Following the Council declaring a climate emergency and its adoption of Policy PPL10, there is a requirement for a Renewable Energy Generation Plan (REGP), to set out measures that will be incorporated into the design, layout and construction, aimed at maximising energy efficiency and the use of renewable energy.

Under Policy PPL10 measures to be considered include the provision of electric vehicle charging points. Paragraph 112 e) of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

In accordance with the above policies the use of a planning condition to require the submission of a REGP and the provision of electric vehicle charging points is reasonable and necessary, and should the application be approved the LPA will be looking to append such a condition subject to agreement with the applicant.

11. Other Considerations

Weeley Parish Council have commented on this application and has objected. The Parish have stated that it has been noted on previous applications that the access and egress onto a major carriageway which carries the national speed limit at that point is considered dangerous and if allowed would create a precedent for other properties whose gardens back onto the B1441 to do the same. From a road safety point of view this would be catastrophic. With the increase in housing developments in the area, the traffic levels are only going to increase, compounding the danger. The tree which has fallen and is quoted on the application as creating 'a natural entry point for access from the main road' is earmarked, amongst others, for replacement as confirmed by the arboriculturist at Place Services for ECC. This is back land development. The proposed building is totally out of keeping with the historical importance of Weeley House and would have no affinity with the existing character of the area. It would look out of place, as noted by the inspector in the appeal statement.

There have been two previous applications for building on this site - 17/01567/OUT and 19/01537/FUL, both of which were refused. The second one went to appeal - APP/P1560/W/17/3192362 which was also dismissed.

Two letters of objection have been received raising the following:

1. Concerns raised in regards to the impact upon the setting of the Listed Building
2. Concerns raised that the development would set a precedent
3. Concerns raised that the access is onto Weeley Bypass
4. Concerns raised in regards to the damage to the trees on site
5. Concerns raised that this development is backland development

In response to the concerns raised, number 1, 2 and 3 have been addressed within the report. If there are concerns in regards to damage to existing trees this would need to be raised with the planning enforcement team if the trees are protected. Although the proposed dwelling is located to the rear of Weeley House, the site is not considered backland as the site has an alternative access.

12. Conclusion and Planning Balance

The proposal would provide some economic benefits in relation to the construction period and benefits in respect of additional residents who would invariably support local businesses and facilities. The delivery of one new dwelling would make a contribution to the housing supply, but this is only a modest contribution at a time when the Council are able to demonstrate in excess of our 5 year housing land supply. However, the weight given to these benefits as a package is limited in view of the proposal's small scale and the Council's healthy 5 year housing land supply position.

The proposal would not have an unacceptable impact on highway safety, the setting of the listed building, impact residential amenities nor would there be any harm to important trees. These are therefore neutral factors in the planning balance.

The proposal would result in significant harm to the character and appearance of the area due to the access onto the Weeley Bypass and would appear out of place. In the absence of a Unilateral Undertaking in accordance with Policy SP2 and the RAMS SPD, the Council cannot be certain that the proposal would not have an Adverse Effect on the Integrity of the European sites included within the Essex Coast RAMS, or on protected species or their habitat. As a result, the proposal conflicts with Policies SP2, PPL4 and the RAMS SPD. Significant weight is given to the potential harm to these interests.

Taking all of the above into account, the harm identified significantly and demonstrably outweighs the minor benefits when assessed against the policies in the Framework when taken as a whole. The proposal cannot therefore be considered to be sustainable development and should be refused.

6. Recommendation

Refusal - Full

7. Reasons for Refusal

- 1 Paragraph 130 of the National Planning Policy Framework states 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. 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 130 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. Furthermore, Policy PPL3 of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond seek to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.

The development would take direct access from and front onto the B1441 (Weeley Bypass). Within paragraph 5 of relevant appeal decision reference APP/P1560/W/17/3192362, the appointed Planning Inspector states that *'I understand that The Street is characterised by frontage development. There are cul de sacs and other roads from it which also contain frontage buildings. By contrast the appeal site would be formed from part of the rear garden*

of Weeley House. This would give it a frontage to the Weeley bypass (B1441). There are no other plots where dwellings that front onto the bypass. The character of the area is rear garden fences and footpath and verge associated with the road'. Furthermore the Inspector state 'I appreciate that the rear of the houses are glimpsed but there is not a strong road frontage of dwellings'. The Inspector ultimately concluded that the proposal 'would not have any physical or visual affinity with the existing character and would appear out of place. This is not something that landscaping would change'.

It is noted that the appeal decision refers to two new dwellings however the siting and access remains in a similar position to the current live application which also fronts Weeley Bypass – as such, these elements are the similar to the appeal scheme and therefore comparable. The scheme will remain at odds with the character of the area as it would not have any physical or visual affinity with the existing character and would continue to appear out of place.

The proposal is therefore contrary to the aims of the afore-mentioned 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 contribution is secured by unilateral undertaking.

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 sited approximately 4.7 km way from Hamford Water RAMSAR Site and SPA.. In accordance with Natural England's advice there is no requirement to consult them due to the specified mitigation. New housing development within the Zol would be likely to increase the number of recreational visitors to the Hamford Water, and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

In the absence of a unilateral undertaking in accordance with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD, the Council cannot be certain that the proposal would not harm habitat sites of ecological interest. The proposal is therefore contrary to adopted Policy SP2 and Section 15 of the National Planning Policy Framework.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

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

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