

DELEGATED DECISION OFFICER REPORT

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File completed and officer recommendation:	MP	10/05/22
Planning Development Manager authorisation:	JJ	11/05/2022
Admin checks / despatch completed	ER	11/05/2022
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Application: 22/00171/FUL **Town / Parish:** Thorrington Parish Council

Applicant: Ms Karen Pawsey

Address: Apple Blossom Paddocks Brightlingsea Road Thorrington

Development: Erection of a new timber framed dwelling following the demolition of existing agricultural barn.

1. Town / Parish Council

Thorrington Parish Council No comments received.

2. Consultation Responses

ECC Highways Dept
09.05.2022

The information that was submitted in association with the application has been fully considered by the Highway Authority. The proposed dwelling will utilise an existing and established vehicular access situated off Brightlingsea Road which is subject to a 40-mph speed limit. The proposed dwelling will be set well back from the publicly maintainable highway. When compared with the previous agricultural small holding, the level of activity from the plot will be considerably reduced. The proposed dwelling will retain adequate off-street parking and turning, therefore:

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

1. Prior to occupation of the new dwelling and as per the Essex Parking Standards (Parking Standards: Design and Good Practice, Sept 2009) 6 metres should be provided behind each parking space to allow for manoeuvring 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. The proposed dwelling shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been hard surfaced and sealed. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

Reason: To ensure that on street parking of vehicles in the adjoining

streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

3. 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.

4. 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.

5. 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 free of charge.

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.

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

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

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

Informative:

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

2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org

3: The applicant must ensure that no mud or detritus is taken onto the

highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway. Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence.

4: The proposed dwelling will be accessed via a road that is classified as a Private Road, the applicant should therefore be requested to demonstrate the rights of pass and repass to the proposed development site exist in perpetuity.

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.

Tree & Landscape Officer
08.04.2022

There are no significant trees or other vegetation on the application site.

In terms of the impact of the development on the local landscape and the character of the area the site is 'tucked away' behind existing properties along the Brightlingsea Road in Thorrington. The application site cannot be seen from a public viewpoint. Therefore there would be little public benefit to be gained by way of new soft landscaping associated with the development proposal.

UU Open Spaces
09.05.2022

Response from Public Realm
Open Space & Play

Application Details

Application No: 22/00171/FUL

Site Address: Apple Blossom Paddocks Brightlingsea Road
Thorrington Essex

Description of Development Erection of a new timber framed dwelling following the demolition of existing agricultural barn
Current Position

There is currently a deficit of 0.4 hectares of formal open space in Thorrington.

Recommendation

A contribution towards open space and play is justified and relevant to this application. The Parish Council have plans in place to make improvements by installing an adult gym and new childrens play equipment at the open space/play area at Chapel Lane Thorrington

3. Planning History

N/A

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

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

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 area of land subject to this planning application is located to the rear of two existing residential properties known as 'Briar Patch' and 'Tullimaar', located to the eastern section of Brightlingsea Road within the parish of Thorrington.

The site currently comprises a single storey barn used for agricultural purposes, and an area of grassed land. It is accessed via Windy-Ridge Lane, approximately 300 metres to the south-west.

The character of the immediate surrounding area is largely dominated with residential development, notably adjacent to the west and running along Brightlingsea Road to the north-east and south-west. To the east and further out to all sides the character becomes more rural, with large areas of grassed land.

The application site is situated equidistant between Thorrington and Brightlingsea, being approximately 0.7 miles and 0.8 miles apart respectively. The site falls outside of a recognised Settlement Development Boundary, as identified within the Adopted Tendring District Council 2013-2033 and Beyond Local Plan.

Description of Proposal

This planning application seeks full planning permission for the demolition of the existing single storey barn and the erection of one residential dwelling.

The proposed dwelling is a single storey structure constructed with black weather boarding and tile, and will serve three bedrooms.

Assessment

1. Principle of Development

There has been a significant recent change in local plan policy, with the Council in January 2022 having adopted its Local Plan to cover the period of 2013-2033 and being able to demonstrate a five year housing land supply.

Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The application site lies outside of a defined

settlement boundary in the 2013-2033 Local Plan, with the nearest settlement of Thorrington located approximately 0.7 miles to the north-east, or Brightlingsea approximately 0.8 miles to the south. The proposed development would therefore extend beyond the area planned to provide growth for this settlement.

In view of the housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement. The proposal therefore gives rise to harm through failing to comply with a statutory plan-led approach to the location of future housing and failing to meet the social strand of sustainable development.

In view of this, the proposal's conflict with policy gives rise to a significant degree of harm. The spatial strategy of Policy SP3 and place shaping principles of Policy SP7 reflect the Framework's sustainable development objectives and the proposal's conflict with both is given full weight. The principle of development is therefore not acceptable in this location.

Potential Permitted Development Fallback Position

It is acknowledged that the existing building on site is within agricultural use. However, no application has been submitted previously to demonstrate that the barn can be converted to residential use under the relevant permitted development legislation, and as such there is no permitted development fallback position that can be granted any weight on this occasion.

2. Design and Visual Impacts (including Backland Development)

Paragraph 130 of the National Planning Policy Framework 2021 (NPPF) 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 Section 1 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 that relates well to its site and surroundings, create a unique sense of place. Furthermore, Adopted Policy LP4 states the design and layout of new residential developments is expected to provide for amenity space of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of the dwelling and character of the area.

The development will result in the creation of one detached dwelling, which will be located beyond the established properties known as 'Briar Patch' and 'Tullimaar'.

The main problems that can arise as a result of backland development include undermining the established character of an area (especially if similar schemes were to be repeated elsewhere in a locality); dwelling plots appearing cramped relative to their surroundings; the fragmentation of established gardens with a loss of mature landscaping; and the infringement of neighbouring residents' amenities. Development behind an established building line can also appear incongruous, particularly with isolated dwellings. There must also be proper means of access to backland development, which is safe and convenient for both drivers and pedestrians, with a turning area where necessary to avoid the need for vehicles to reverse onto a public highway. A proposed access should avoid excessive disturbance or loss of privacy to neighbouring residents through, for example, an access drive passing unreasonably close to an adjoining dwelling. The likely frequency of use by vehicular traffic and the suitability of the access for service vehicles and the emergency services will also be relevant material considerations.

Of particular relevance in this instance is also Policy LP8 of the adopted Local Plan, which states that proposals for the residential development of backland sites must comply with the following criteria (officer assessment in italics):

a) where the development would involve the net loss of private amenity space serving an existing dwelling, that dwelling must be left with a sufficient area of private amenity space having regard to the standards in this Local Plan;

As stated above, to comply with adopted Policy LP4, the design and layout of new residential developments is expected to provide for amenity space of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of the dwelling and character of the area. The proposed dwelling, and all existing dwellings, will all provide for sufficient private amenity space that will be appropriately sized, and therefore comply with this criterion (and Policy LP4).

b) a safe and convenient means of vehicular and pedestrian access/egress must be provided that does not cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will not be permitted;

The dwelling is proposed to be accessed via a newly created access point which connects to an existing track leading to Windy-Ridge Lane, which itself is located approximately 300 metres to the south-west. The access point will therefore be a long, narrow and convoluted means of entering/exiting the development, and would not accord with the above criterion.

The proposal will result in a minor intensification of the use of this access given a net increase of one dwelling, however the vehicular movements associated with this is not considered to be a significant intensification. Therefore it is not considered that there would be significant noise disturbances to the neighbouring properties adjacent to the access point ('Hillside and 'Owltye') that would warrant a reason for refusal, while there will also be no visual harm as the extension to the existing access is hidden to the rear of the site.

c) the proposal must avoid "tandem" development using a shared access;

The proposed development does partly utilise a shared access, however will not result in a form of tandem development, and this criterion is therefore met.

d) the site must not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;

The site is considered to comprise an irregular and awkward shape, however is unlikely to prejudice a more appropriate comprehensive development solution, and therefore this criterion is met.

e) the site must not be on the edge of defined settlements where likely to produce a hard urban edge or other form of development out of character in its particular setting; and

The development is not located close to an existing settlement, but is located to the edge of this specific area of development along Brightlingsea Road. There are dwellings located immediately to the west, and other built form further to the south, however the development would still appear incongruous and out of character with the predominant existing built form along Brightlingsea Road, as discussed further at criterion f) below.

f) the proposal must not be out of character with the area or set a harmful precedent for other similar forms of development.

The surrounding area consists of a defined and linear pattern of development, with dwellings running north to south along this section of Brightlingsea Road in a linear pattern. While there are examples of built form beyond this existing development to the rear, this is sporadic only. Given this, the siting of the proposed dwelling to the rear of the application would appear contrived, incongruous and out of character within this setting, resulting in a harmful form of development contrary to the above policies. It would appear visually harmful and would set a direct precedent for similar forms of development along this section of Brightlingsea Road, particularly to the south,

which combined would contribute to the significant erosion of the semi-rural character, and detrimental to the above local and national planning policies.

3. Impact 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.

There are a number of existing residential properties within the immediate vicinity, notably to the west along Brightlingsea Road. However there are good separation distances to each existing plot, which significantly reduces the potential for loss of daylight/sunlight and the dwellings appearing imposing or oppressive. With respect to potential overlooking the dwelling is single storey thereby avoiding the potential of overlooking.

Therefore, there is not significant identified harm that would warrant a reason for refusal in terms of impacts to existing and future neighbouring amenities.

4. Tree and Landscapes Impacts

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

"There are no significant trees or other vegetation on the application site.

In terms of the impact of the development on the local landscape and the character of the area the site is 'tucked away' behind existing properties along the Brightlingsea Road in Thorrington. The application site cannot be seen from a public viewpoint. Therefore there would be little public benefit to be gained by way of new soft landscaping associated with the development proposal."

5. Highways Impacts

Paragraph 110 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, whilst Paragraph 104 requires that streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

Adopted Policy CP1 (Sustainable Transport and Accessibility) of the Tendring District Local Plan 2013-2033 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people.

Essex Highways Authority have been consulted and have confirmed they have no objections subject to conditions relating to a vehicular turning facility, provision for cycle/powered two-wheeler parking, and areas allocated for loading, unloading, reception and storage of building materials. Had the application been recommended for approval, these conditions would have been incorporated. An additional condition has been requested for the submission of a Residential Travel Information Pack, however given the minor nature of the proposed scheme it would not be reasonable to impose this condition.

Furthermore, the Essex County Council Parking Standards 2009 set out the parking requirements for new development, and confirm that for residential properties of two bedrooms or more there should be two parking spaces measuring a minimum of 5.5 metres x 2.9 metres or, if being used as one of the parking spaces, a garage should measure a minimum of 7 metres x 3 metres. The submitted information demonstrates this would be achievable.

6. 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.

Paragraph: 020 of the National Planning Policy Guidance states that where a connection to a public sewage treatment plant is not feasible a package sewage treatment plant can be considered. The package sewage treatment plant must comply with the Small sewage discharges in England: general binding rules 2015 (GBR), or a permit will be required. Package sewage treatment plants may only be considered if it can be clearly demonstrated by the applicant that discharging into a public sewer is not feasible (taking into account cost and/or practicability and whether the package treatment plant poses a risk to a designated site) in accordance with Approved Document H of the Building Regulations 2010. A completed Foul Drainage Assessment Form 1 (FDA1) form, or equivalent information, should accompany all planning applications where use of a non-mains system is proposed for foul drainage. The operation of small sewage discharges such as those from septic tanks or package treatment plants is regulated under the Environmental Permitting Regulations 2016 (EPR).

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. 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 a septic tank. This does not adhere to the above local and national policy requirements which seek to connect new development to an existing public foul sewer.

Given the above, a completed Foul Drainage Assessment Form 1 (FDA1) form has been completed and received on 21st April 2022. The FDA1 form confirms that it is not feasible to connect to the public foul sewer as at the shortest point is over 30 metres (as confirmed by an accompanying plan showing the nearest public foul sewer connection point.) Therefore, consideration can be given to a septic tank. The drainage system proposal can be summarised as follows:

- System will be located at least 7m from the habitable part of a building;
- Vehicular access for emptying within 30m is possible;
- The system can be maintained or emptied without the contents being taken through a dwelling;
- The system will discharge to a drainage field designed and constructed in accordance with British Standard BS6297:2007;
- Will be located at least 10 metres from a watercourse, permeable or land drain;
- The system is maintenance free and needs to be emptied every three years;
- Estimated total flow in litres per day is 450.

Following this the information provided is acceptable on this occasion, and therefore notwithstanding the lack of connection to a public foul sewer there is no objection raised.

7. 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 0.4 hectares of formal open space in Thorrington, and a contribution towards open space is justified and relevant to this planning application. The Parish Council have identified a need for improvements to the open space/play area at Chapel Lane, Thorrington by installing an adult gym and new childrens play equipment. A unilateral undertaking has not been provided to secure this legal obligation.

(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 being approximately 350 metres from the Colne Estuary Ramsar site and Special Protection Area. 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

Thorrington Parish Council have not provided comments.

There have been three letters of objection and one letter neither objecting nor supporting, with the following points raised:

1. Highway safety concerns;
2. Long and narrow driveways are not allowed; and
3. Concerns with the drainage proposal.

In answer to this, these points are addressed within the main body of the report above.

Conclusion

The application site lies outside of a recognised Settlement Development Boundary as per the recently Approved Local Plan, and as such the principle of residential development in this location is not accepted. In addition, the dwelling will be located to the rear of the site beyond the existing building line. This is considered to be out of character with the existing pattern of development and would set a harmful precedent. Accordingly the application is recommended for refusal.

6. Recommendation

Refusal.

7. Reasons for Refusal

- 1 Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The application site lies outside of a defined settlement boundary in the 2013-2033 Local Plan, with the nearest settlement of Thorrington located to the north and Brightlingsea to the south. The proposed development would therefore extend beyond the area planned to provide growth for this settlement.

In view of the housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement. The proposal therefore gives rise to harm through failing to comply with a statutory plan-led approach to the location of future housing. In view of this, the proposal's conflict with policy gives rise to a significant degree of harm. The spatial strategy of Policy SP3 and place shaping principles of Policy SP7 reflect the Framework's sustainable development objectives and the proposal's conflict with both is given full weight. The principle of development is therefore not acceptable in this location.

- 2 Paragraph 130 of the National Planning Policy Framework 2021 requires that developments are sympathetic to local character and maintain a strong sense of place. Policy SP7 of Section 1 of the adopted Local Plan 2013-33 and Beyond seeks high standards of design, which respond positively to local character and context. Policies SPL3 and LP4 of Section 2 of the adopted Local Plan also require that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout relate well to its site and surroundings. Furthermore, adopted Local Plan Policy LP8 states proposals for the residential development of backland sites must not be out of character with the area and set a harmful precedent, and should not provide a long and narrow driveway.

The surrounding area consists of a defined and linear pattern of development, with dwellings running north to south along this section of Brightlingsea Road in a linear pattern. The siting of the proposed dwelling to the rear of these dwellings would appear contrived, incongruous and out of character within this setting, resulting in a harmful form of development contrary to the above policies. It would appear visually harmful and would set a direct precedent for similar forms of development along this section of Brightlingsea Road, particularly to the south, which combined would contribute to the significant erosion of the semi-rural character, and detrimental to the above local and national planning policies.

In addition, the access point to the dwelling will be a long, narrow and convoluted means of entering/exiting the development, and would not accord with the above planning policies.

- 3 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.

There is currently a deficit of 0.4 hectares of formal open space in Thorrington, and a contribution towards play and open space is justified and relevant to this planning

application. Any contribution would be used to install an adult gym and childrens play equipment at the open space/play area at Chapel Lane, Thorrington.

A completed unilateral undertaking to secure the above-mentioned planning obligation has not been provided and the application is therefore contrary to the above-mentioned policies.

- 4 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 350 metres from the Colne Estuary Ramsar site and Special Protection Area. 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.

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. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.