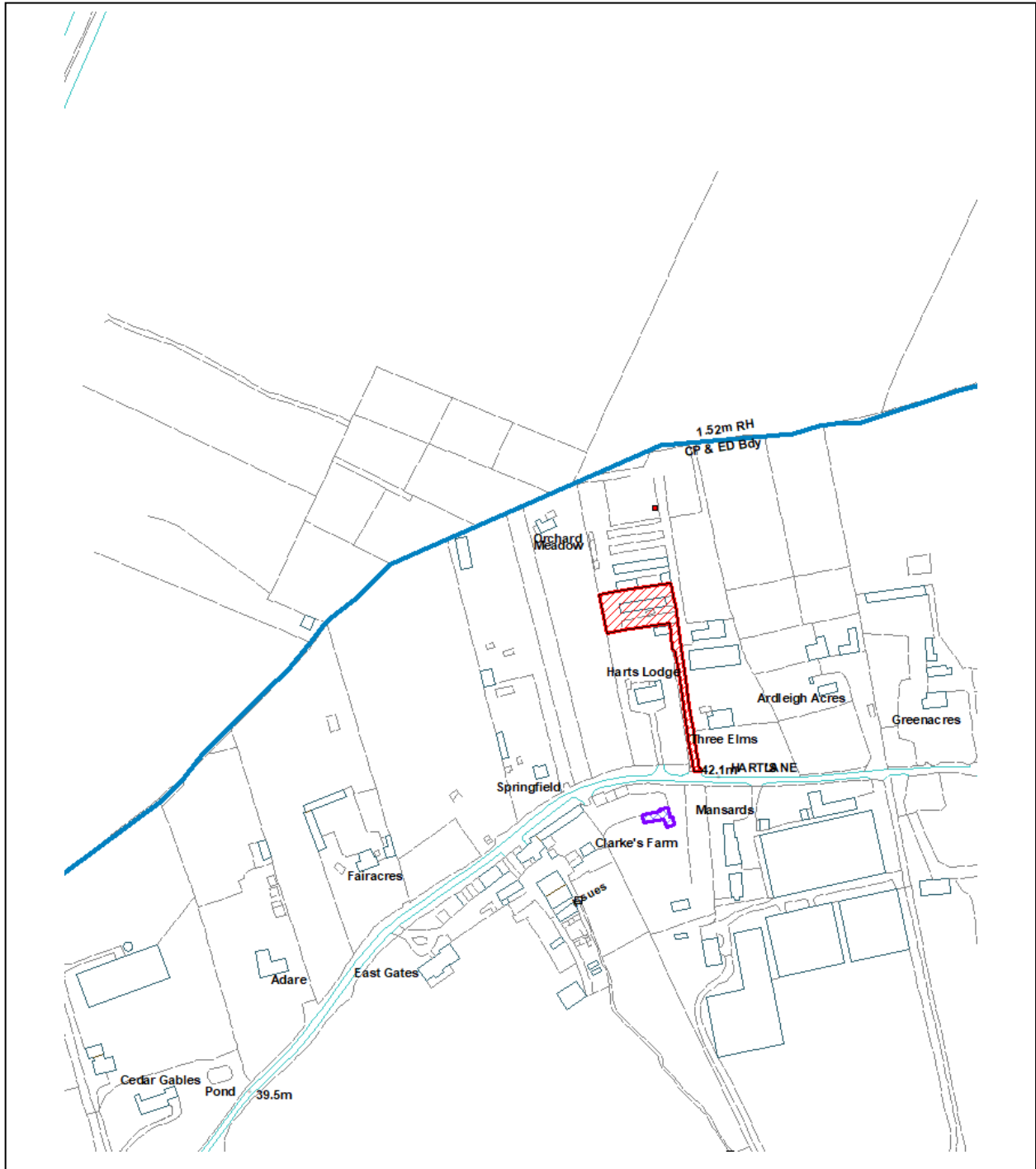


PLANNING COMMITTEE

25th October 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.3 PLANNING APPLICATION – 22/01041/FUL – LAND TO REAR OF THREE ELMS HARTS LANE ARDLEIGH CO7 7QH



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Application: 22/01041/FUL

Town / Parish: Ardleigh Parish Council

Applicant: J Webster

Address: Land to rear of Three Elms Harts Lane Ardleigh CO7 7QH

Development: Proposed erection of a 3-bedroom bungalow (in lieu of Prior Approval for one 3-bedroom dwelling, subject of application 22/00517/COUNOT).

1. **Executive Summary**

- 1.1 The application is referred to Planning Committee as the proposed development would conflict with the requirements of the Development Plan, principally Policy SPL2 (Settlement Development Boundaries) of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022) being located outside of any defined settlement development boundary, and has a recommendation of approval.
- 1.2 The proposed dwelling is not considered to be so materially different in regards to siting, height, footprint to the development approved under prior approval 22/00517/COUNOT and is similar in size, scale and appearance to the new dwellings approved within the wider site.
- 1.3 In the absence of any material harm resulting from the development in regards to its individual appearance, impact on the wider streetscene and the character and appearance of the rural landscape, the application is recommend for approval. Furthermore the proposal would not result in any detrimental impact on neighbour amenity and there are no concerns raised in regard to parking and highway matters.

Recommendation:

- (a) That the Assistant Director for Planning* be authorised to Grant Planning Permission subject to conditions as stated in Section 8.2 (or as need to be varied) and those as may be deemed necessary by the Assistant Director for Planning*

*Or to whom is otherwise delegated after 26th October 2022

2. **Planning Policy**

- 2.1 The following Local and National Planning Policies are relevant to this planning application.

2.2 National:

National Planning Policy Framework July 2021 (NPPF)
National Planning Practice Guidance (NPPG)

2.3 Local:

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
LP4	Housing Layout
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL10	Renewable Energy Generation
CP1	Sustainable Transport and Accessibility

Draft Neighbourhood Plan for Ardleigh - Regulation 14 Pre-Submission Consultation between 8 August 2022 and 23 September 2022.

2.4 Supplementary Planning Guidance:

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)
Essex County Council Development Management Policies 2011
Essex County Council Parking Standards Design and Good Practice Guide 2009
Tendring Provision of Open Recreational Open Space for New Development SPD 2008 (Open Space and Play SPD)

Status of the Local Plan

- 2.5 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.
- 2.6 In relation to housing supply:
- 2.7 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').
- 2.8 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.

3. Relevant Planning History

Wider Site

17/01710/COUNOT	Change of use from agricultural building to residential dwellinghouse.	Prior Approval not required	27.11.2017
19/01735/OUT	Redevelopment of site for 4 no single storey residential dwellings (considering access only).	Refused	08.01.2020
20/00551/COUNOT	Change of use from agricultural building to two dwelling units.	Prior Approval not required	25.06.2020
20/00887/FUL	Replacement of a former agricultural building with two x 3 bed bungalows (in lieu of Prior Approval for two x 3 bed dwellings subject of application 17/01710/COUNOT).	Approved	14.10.2020
21/00002/FUL	Erection of 2 detached bungalows and garage.	Approved	04.06.2021
21/01119/DISCON	Discharge of conditions 4 (Screen and Wall Fences) and 7 (External Materials) of approved application 21/00002/FUL.	Approved	06.07.2021
21/01232/DISCON	Discharge of condition 9 (Foul Water Strategy) of approved application 21/00002/FUL.	Approved	19.01.2022
21/01690/FUL	Proposed erection of two 2-bedroom bungalows (in lieu of Prior Approval for two x 2-bedroom dwellings, subject of application 20/00551/COUNOT (allowed at appeal).	Approved	22.12.2021
22/00365/FUL	Proposed erection of two 3-bedroom bungalows (in lieu of Prior Approval for two x 2-bedroom dwellings, subject of application 20/00551/COUNOT allowed at appeal). Variation to scheme as approved under planning permission 21/01690/FUL change of use of the land to the rear from agricultural to amenity land	Approved	03.05.2022
22/01624/DISCON	Discharge of conditions 14 (Ground Conditions Risk Assessment), 15 (EP	Current	

Method Statement) and 16 (Drainage Works) of 22/00365/FUL.

Application Site

22/00517/COUNOT Proposed conversion of part of Prior Approval 20.05.2022 former agricultural building into one not required dwelling

4. Consultations (Summary)

Ardleigh Parish Council
15.07.2022

The Parish Council strongly opposes this application as it considers that the site is already overdeveloped and is unsuitable for further housing (on a single track lane in countryside which should be protected and preserved). This should be treated as a new application and the current Local Plan and emerging Ardleigh Neighbourhood Plan should be given full weight. The site is outside the Settlement Development Boundary and is not sustainable.

Wish to call in to Planning Committee so that the full implications of the existing over-development of the site can be seen. No public benefit from the development

ECC Highways Dept
18.07.2022

The application is similar to previous applications: 20/00551/COUNOT and 21/01690/FUL. The proposed development is set well back from the highway and access will be gained from an established vehicular access. The new dwelling will have a lesser impact on traffic generation, when compared with the previous agricultural use. It is noted that application: 20/00551/COUNOT was subject to an appeal decision granted in July 2021; considering these factors and the comments made by the inspector in relation to application 20/00551/COUNOT:

The Highway Authority does not object to the proposals as submitted, subject to the previous highway conditions for 22/00517/COUNOT are replicated.

Tree & Landscape Officer
13.07.2022

The proposed footprint of the new dwelling would cover the area where several early mature trees are situated. Immediately adjacent and to the north of the existing barn there is a single oak, a group of Silver Birch and a Goat Willow.

Whilst the trees are in reasonable condition their position, set back from the highway, is such that they make only a moderate contribution to the character and appearance of the area and have low amenity value. Consequently they do not merit retention or formal legal protection by means of a tree preservation order.

UU Open Spaces
28.07.2022

There is currently a deficit of -1.70 hectares of equipped play/open space in Ardleigh.

No contribution is being requested from Open Spaces on this occasion. However should there be further development a contribution may become necessary.

5. Representations

- 5.1 No representations have been received following a public consultation which included a site notice posted at the site and neighbouring consultation letters sent out to the adjacent properties.

6. Assessment

Site Context

- 6.1 The application site is located on the northern side of Harts Lane, to the rear of Harts Lodge and accessed by a driveway which runs between Harts Lodge and Three Elms and comprises of a vacant barn previously used in conjunction with the poultry rearing business which operated on the site.
- 6.2 To the rear of the site, two dwellings approved under 22/00365/FUL are under construction and to the east are two newly built bungalows. Around the wider site are a number of existing buildings, a grassy area and a large area of hardstanding, which was formerly used when the wider site operated as a poultry farm.
- 6.3 The area is semi-rural in character and lies outside any defined settlement development boundary. Application TEN/184/69 was the original permission for the bungalow (Three Elms) with an agricultural occupancy condition attached that was later removed under approved planning application 10/00291/FUL.
- 6.4 The site has an extensive planning history which is outlined above with a total of 4 dwellings approved on the site. The site is not located within a Conservation Area and is sited within Flood Zone 1 which has a low risk of flooding.
- 6.5 The proposed development site is located approximately 1.8 miles from Ardleigh village where there are some facilities, such as a shop and post office. The site is a short distance from the A12 to Colchester and beyond.

Relevant History

- 6.6 In May 2022 it was deemed that Prior Approval (namely in regard to access, flooding, design, noise, natural light, space standards and contamination) 22/00517/COUNOT for the conversion of one agricultural building into one three bed dwelling was not required. This scheme is referred to as the 'fall back' scheme.

Proposal

- 6.7 The application proposes one new dwelling in lieu of the prior approval granted for the poultry barn building on site, which is to be fully demolished, including parking spaces and an amenity area.
- 6.8 The proposed new dwelling is a modest bungalow with a uniform rectangular footprint and a dual pitched roof, with an eaves height of some 2.5m and a ridge height in the region of 5.9m. The proposed dwelling is sited, mostly within the footprint of the existing building, with a gross internal area of around 128sqm which is comparable to that of the dwelling approved under the prior approval scheme.

- 6.9 The proposed dwelling comprises of three bedrooms, bathroom, en-suite, utility room, kitchen/dining area and lounge. The external materials proposed are cladding above a brick plinth and tiled roof.

Assessment

Principle of Development

- 6.10 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (section 70(2) of the 1990 Town and Country Planning Act and section 38(6) of the Planning and Compulsory Purchase Act 2004). The development plan for Tendring Council comprises of the adopted Tendring District Local Plan 2013-2033 and Beyond Sections 1 and 2.
- 6.11 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 the defined settlement boundary of Ardleigh in the adopted 2013-2033 Local Plan. The proposed development would therefore extend outside 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.
- 6.12 Policy SPL2 supports new development within defined SDBs which would encourage sustainable patterns of growth and carefully control urban sprawl. Within a defined SDB, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans. Under Policy SPL1 Ardleigh is classified as a Smaller Rural Settlement and these smaller villages are considered to be the least sustainable locations for growth. However, these villages are still under pressure to grow and some small-scale development which is sympathetic to the rural settlement might help younger people to continue to live in the area, keep local shops and services viable and help bring balance to an ageing population.
- 6.13 With regard to development outside of the defined SDB, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in this plan.
- 6.14 Therefore there is limited policy support for new dwellings outside of the defined SDB. In this case however Prior Approval has been granted for the conversion of the existing agricultural dwelling to a new dwelling. This is considered to form a material consideration in respect of the application and denotes what is considered to be a viable fall-back position as outlined below.

Fallback Position – Material Consideration.

- 6.15 It is established in case law that permitted development rights can legitimately represent a fall-back position when considering alternative proposals for development of the same site.
- 6.16 The relevant legal principles relating to the fall-back position were set out in R v Secretary of State for the Environment and Havering BC (1998) EnvLR189. In that case Mr Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted submissions that there were three elements to the fall-back test:

"First whether there is a fall-back use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly if the answer to the second question is "yes" a comparison must be made between the proposed development and the fall-back use."

- 6.17 The notion of Class Q providing a lawful fall-back position was subsequently and comprehensively dealt with at the landmark Court of Appeal case, Mansell vs Tonbridge and

Malling Borough Council [2017], which concluded that a realistic fall-back position in regard to Class Q would amount to a material consideration in the determining of an application.

	22/00517/COUNOT (Prior Approval)	22/01041/FUL (New dwelling)
Siting	To the west of the wider site and access road.	Similar within footprint of existing building
Access	Same	Same
Appearance	Wooden clad structure	Brick plinth, cladding and tiles
Ridge Height	3.2m	5.9m
Eaves Height	2.1m	2.5m
Gross Internal Area	135sqm	128sqm
Bedrooms	3	3

- 6.18 In conclusion, having regard to the above, the application is considered to meet all 3 tests set out for a viable fall-back position in terms of the legal position set out earlier. There is a fall-back use in the form of the Prior Approval and it is considered that the proposed development, is, in the main, comparable to that approved under the Prior Approval, in terms of its sitting, size, scale and external appearance. As outlined above in the comparison table, there is a noticeable increase in the height of the new dwelling, however this is considered to be acceptable in this rural location and reflects the height of the other dwellings approved on the wider site. Lastly there is a realistic prospect of the prior approval scheme being implemented. Therefore the fall-back position is given significant weight in the assessment of this application.
- 6.19 Therefore given the circumstances of this case, along with the legal position and the Prior Approval fall-back position, the principle of development for a new dwelling on this site is considered to be acceptable subject to the detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans.

Layout, Scale and Appearance

- 6.20 The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. (Para 126 NPPF).
- 6.21 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials and should respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.
- 6.22 The proposed development comprises of a detached bungalow, which is considered to be of a size, scale and design in keeping with the character and appearance of the existing dwellings approved within the wider site, having a simple dual pitched roof and external cladding. The form and massing of the proposed dwelling is similar, comprising of unassuming glazed elevations and an uncluttered façade and is proportionate to the plot. For these reasons it is considered that the development would respect the local landscape character, skylines and existing street patterns and is sympathetic to the wider area.
- 6.23 Therefore, having regard to the above policy considerations, the proposal is considered to be policy compliant in terms of its scale, layout, appearance and design. The proposal would make more efficient use of the site, consistent with Paragraph 124 of the Framework, and, because it

would not be at odds with the character and appearance of the area it would accord with the overall thrust of Policies SP7 and SPL3.

Living Conditions of future Occupiers

- 6.24 In March 2015, the government launched a new approach to housing standards and published a new set of streamlined national technical standards. This included publication of Technical housing standards – nationally described space standards (2015) which sets out minimum gross internal floor space, bedroom sizes and storage requirements for new dwellings.
- 6.25 All new dwellings must therefore accord with the Technical housing standards. A three bedroom, one storey dwelling requires a minimum of 74-95sqm of Gross Internal Floorspace (GIA). From the plans submitted the proposed bungalow meets the requirements of the space standards. It is also considered that the internal layout is appropriate, with all habitable rooms having adequate natural light.
- 6.26 Amenity spaces in the locale vary in both size and configuration and it is considered that the amenity area proposed is considered to meet the needs and expectations of residents and is commensurate to the size of dwelling and the character of the area.
- 6.27 Overall the proposal is considered to secure a good standard of amenity and accommodation for future occupants of the proposed dwelling.

Impact on Residential Amenity

- 6.28 The NPPF, Paragraph 130 maintains that policies and decisions should result in new development that creates 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.
- 6.29 Policy SPL3 seeks new development that is designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents, provision is made for adequate private amenity space, waste storage and recycling facilities and the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.30 The application site is located within a fairly rural location, neighboured by the dwellings Harts Lodge and Three Elms to the south and two newly constructed bungalows to the east and two bungalows which are under construction to the north. The site is accessed via the existing private lane which runs along the front of the proposed dwelling up to the two bungalows under construction.
- 6.31 The proposed development has been designed to minimise any overlooking or loss of privacy issues and given the orientation of the bungalow and the separation distances from the neighbouring properties and the existing residential use of the building by way of the Prior Approval consent, it is not considered that this development would impact on the residential amenities of these neighbouring occupiers in any regard.

Highway and Parking Considerations

- 6.32 Paragraph 110 of the Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SP7 seeks new development to include parking facilities that are well integrated as part of the overall design. The sentiments of this policy are carried forward within Policies SPL3 and CP1. Furthermore, the Essex County Council Parking Standards 2009 set out the parking requirements for new development.

- 6.33 The Essex County Council Parking Standards 2009 require that dwellings with 2 or more bedrooms be served by a minimum of 2 parking spaces. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied upon to provide a parking space, should measure 7 metres by 3 metres internally. The submitted plans show that the new dwelling would utilise the existing access and will be provided with two parking spaces that meet policy requirements. A turning area is provided within the main access to the site, which would serve the five dwellings along this private lane and this would ensure that vehicles entering and leaving the site can do so in a forward gear in the interests of highway safety.
- 6.34 Subject to the use of conditions, the proposal would accord with Policies SPL3 and CP1 and the Highways and Parking SPDs and there is no objections raised from the Highways Authority. The proposal is not therefore considered to result in any unacceptable harm to highway safety.

Trees and Landscaping

- 6.35 Policy SPL3 seeks new development that respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. The design and layout of the proposed development should maintain or enhance important existing site features of landscape, ecological, heritage or amenity value.
- 6.36 The new dwelling would involve the removal of a number of mature trees immediately adjacent and to the north of the existing barn, a single oak, a group of Silver Birch and a Goat Willow. The trees are in a reasonable condition, however in this instance they do not merit retention or formal legal protection by means of a tree preservation order.
- 6.37 Therefore it is considered reasonable to require a full detailed hard and soft landscaping scheme to be submitted and approved which would need to show the trees which are to be retained and those which are to be removed, along with new soft landscaping to the application site in order to soften and screen the proposed new dwelling from views to the west. This can be secured by condition.

Water Conservation, Drainage and Sewerage

- 6.38 Paragraph 170 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 180 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.
- 6.39 Policy PPL5 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, which in this case there is not. 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.
- 6.40 The application form accompanying the application has stated that the development would be connected to a package water treatment plant.
- 6.41 Although details of the type of system have been submitted no FDA1 Foul drainage assessment form has been received. This makes it more difficult for the Council to be certain any application for an environmental permit would not be refused, or if any concerns of pollution or nuisance may arise. Nevertheless, the required details in this regard can be secured by condition.

Ecology and Biodiversity Implications

- 6.42 Policy PPL4 seeks to protect and enhance the local biodiversity and geodiversity. Whilst the site is not of any specific designation, it is considered to be within a fairly rural setting. The development has scope to include wildlife friendly, native planting and habitat boxes for roosting bats and nesting birds. These measures will contribute to biodiversity net-gain in accordance with Paragraph 174(d) of the NPPF (2021).
- 6.43 These measures can be adequately secured by suitable conditions to any grant of planning permission.

Environmental Protection

- 6.44 The applicant has submitted a Construction Method Statement, outlining measures to minimise potential nuisance to nearby existing residents caused by the construction works. This CMS has regard to noise control, vehicle movements and working hours, use of machinery and mobile plant, piling works and both emission and dust control and is considered to be acceptable. Due to the location of the site and its previous agricultural use, conditions are recommended in relation to land contamination and safe removal of asbestos.

Renewable Energy

- 6.45 Policy PPL10 addresses renewable energy generation and energy efficiency measures for residential development involving the creation of one or more dwellings. Measures including electric car charging points should be considered. 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. This can reasonably be dealt with by the use of a planning condition.

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS):

- 6.46 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.
- 6.47 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.
- 6.48 The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 7,572 metres from Stour and Orwell Estuaries Ramsar. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Stour and Orwell Estuaries; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site.
- 6.49 Mitigation measures must therefore be secured prior to occupation. A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017

7. Conclusion

7.1 It is considered that the proposed development is consistent with the National and Local Plan Policies identified above – in reaching this conclusion due regard is given to other material planning considerations as per section 70 of the Town and Country Planning Act 1990. In the absence of material harm resulting from the proposal the application is recommended for approval.

8. Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a Unilateral Agreement, Financial contribution towards RAMS.

8.2 Conditions and Reasons

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plan(s):

Site Plan submitted 17/06/2022

WHL-302 Rev A - Proposed block, elevations and floor plans – dated 06/2022

Construction Method Statement submitted 17/06/2022

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

3. Prior to the first occupation of the dwellinghouse, hereby approved, the existing agricultural building (subject of 22/00517/COUNOT) and shown as being demolished on drawing WHL-302 Rev A) on the site must be completely demolished and all materials resulting therefrom shall be cleared from the site.

Reason - The development hereby permitted has only been supported on the basis that the existing agricultural building be removed from the site to justify their replacement with a single dwelling which ordinarily would be contrary to the development plan which directs new development to sites within settlement development boundaries.

4. Prior to and during construction, if any unexpected ground conditions are encountered during the following processes must be followed:
 - a. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
 - b. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
 - c. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
 - d. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.

- e. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
- f. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
- g. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
- h. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
- i. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
- j. A photographic record will be made of relevant observations.
- k. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be: o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or o treatment of material on site to meet compliance targets so it can be re-used; or o removal from site to a suitably licensed landfill or permitted treatment facility.
- l. A Verification Report will be produced for the work.

Reason - to protect the health of site workers and end users

- 5. The Construction Method Statement submitted 17/06/2022 shall be strictly adhered to throughout the construction period for the development.

Reason - In the interests of residential amenity and highway safety and to reduce the likelihood of complaints of statutory nuisance.

- 6. Prior to the commencement of any above ground works, details of the drainage works for wastewater and foul drainage must be submitted to and approved in writing by the Local Planning Authority. These works shall subsequently be carried out in accordance with the approved details.

Reason - To ensure satisfactory drainage/surface water disposal/sewerage disposal is provided.

- 7. Prior to the commencement of any above ground works, a full scheme of hard and soft landscaping works including a detailed plan, showing species to be used, planting positions, numbers of trees and shrubs and the sizes of the plants at time of planting and include wildlife friendly, native planting and locations for habitat boxes for roosting bats and nesting birds shall be submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of visual amenity, the quality of the development and the character of the area.

- 8. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure the adequate retention and maintenance of the approved landscaping scheme for a period of five years in the interests of visual amenity, the quality of the development and the character of the area.

9. Prior to first occupation of the dwelling hereby approved, the entirety of the hedgerow, fronting Harts Lane to the east of the approved access shall be removed. Thereafter, there shall be no obstruction to visibility east of the access, greater than 600mm above the adjoining road level, in advance of a line drawn 2.4 metres back from the carriageway edge on the centre line of the access and extending across the frontage of the site.

Reason: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety

10. No gates be provided at the vehicular access with Harts Lane. The access shall remain open and free for use at all times.

Reason -To give vehicles using the access free and unhindered access to and from the highway in the interest of highway safety.

11. Prior to above ground works, a scheme for the provision of electric vehicle charging facilities for the dwelling shall have first been submitted to and approved in writing by the local planning authority. Thereafter the charging facilities shall be installed in a working order, prior to first occupation of the dwelling.

Reason: In order to promote sustainable transport.

12. Notwithstanding the provisions of Schedule 2 Part 1 Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no extensions, additions, porches or alterations to the dwellings or their roofs shall be carried out and no outbuildings, enclosures, swimming or other pools shall be erected except in complete accordance with details which shall previously have been approved, in writing, by the Local Planning Authority following the submission of a planning application for such development.

Reason - To minimise and retain control over the amount of development in this rural location

8.3 Informatives

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

Asbestos

Prior to the commencement of any demolition works, an asbestos survey should be carried out. Any asbestos containing materials must be safely removed by a qualified contractor to protect the health of site workers and end users

Highways

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

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.

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.

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom

from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.