

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	05/10/22
Planning Development Manager authorisation:	JJ	05/10/22
Admin checks / despatch completed	ER	06/10/2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	06.10.2022

Application: 21/01932/FUL **Town / Parish:** St Osyth Parish Council

Applicant: Mr and Mrs Will and Dawn Felton

Address: Bushwood Rectory Road Weeley Heath

Development: Proposed conversion of existing chicken shed (unused and previously part of working farm) into 123sqm 4 bedroom C3 dwelling.

1. Town / Parish Council

St Osyth Parish Council No comment

2. Consultation Responses

ECC Highways Dept
06.01.2022
(Initial comments)

The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated April 2010. It is noted that this application is similar to a previous application for a holiday let approved in 2016 with a new private vehicular access from Rectory Road which is subject to a de-restricted speed limit. Unlike the previous application the new proposal is for a full-time residential property; the proposed location of the new vehicular access is the same as the 2016 application; the location has an established hedgerow that is in excess of 2 metres in height and only set back no more than 1 metre from the carriageway edge.

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

1. Based on the information provided the applicant has failed to demonstrate adequate visibility splays from the proposed access in accordance with the speed of the road, to the satisfaction of the Highway Authority. The lack of such visibility would result in an unacceptable degree of hazard to all highway user to the detriment of highway safety.

2. The proposal would create a new access onto Rectory Road (Local Road) where visibility, from the proposed site access and forward visibility along Rectory Road, is not in accordance with current safety standards. The main function of this highway is to safely provide local access and movement for people and goods.

The existence of a field access in the vicinity is a matter of fact and therefore some degree of conflict and interference to the passage of through vehicles already occurs but the intensification of that conflict and interference which this proposal would engender would lead to a

deterioration in the efficiency of the local road as a traffic carrier to the detriment of highway safety.

The proposal is therefore contrary policies DM1, and DM4 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: As far as can be determined, there is no information provided on the visibility splays for the new access or the extent of the publicly maintainable highway to determine whether adequate visibility splays can be provided within the limits of public highway and/or land in the control of the applicant.

2: it is likely that part of the hedgerow across the site frontage of the proposed access will need to be removed and/or reduced in height or a replacement hedge planted a minimum of 1 metre back from the highway boundary and any visibility splay.

3: The applicant would need to conduct a speed survey in accordance with CA 185 Vehicle Speed Measurement (Design Manual for Roads and Bridges), to establish the 85th percentile speed of the road and provide visibility splays in accordance. Speed surveys should be taken at the extent of the achievable visibility splays. Visibility splays must be achieved within the limits of public highway and/or land in the control of the applicant. Highway boundary information can be obtained from highwayrecords@essexhighways.org Clearly if the applicant does commission additional work there is no guarantee that the required standards can be met or that the proposal will be acceptable to the Highway Authority.

The Highway Authority reserves making a recommendation until such time as the above information has been considered and provided.

UU Open Spaces
20.12.2021

Response from Public Realm
Open Space & Play

Application Details

Application No: 21/01932/FUL

Site Address: Bushwood Rectory Road Weeley Heath Clacton on Sea

Description of Development: Proposed conversion of existing chicken shed (unused and previously part of working farm) into 123sqm 4 bedroom C3 dwelling.

Current Position

There is currently a deficit of -2.18 hectares of equipped play and formal open space in Weeley.

Recommendation

Although there is a deficit of play and open space in Weeley Heath, it is not thought that there will be an impact on these facilities as a result of this development. Therefore no contribution is being requested on this occasion. Should there be further development on this site a contribution maybe required.

Tree & Landscape Officer
02.12.2021

No trees or other significant vegetation will be adversely affected by the development proposal.

The proposed change of use of the existing structure will not require any works to trees and the site is well screened from the highway by intervening vegetation.

There is little benefit to be gained by additional soft landscaping as existing vegetation provides a good level of screening

Environmental Protection
26.11.2021

Should the above application be approved, the EP Team are requesting the following conditions be applied:

Contaminated Land: Given the site and surrounding areas historical use for agriculture, we are requesting a Watching Brief be conditioned and adhered to throughout the demolition and construction phase -

We request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

Minimum requirements for dealing with unexpected ground conditions being encountered during construction.

1. 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.
2. 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.
3. 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.
4. 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.
5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
8. 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.
9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.

10. A photographic record will be made of relevant observations.
11. 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;
 - o treatment of material on site to meet compliance targets so it can be re-used;
 - o removal from site to a suitably licensed landfill or permitted treatment facility.
12. A Verification Report will be produced for the work.

Asbestos: Should any asbestos containing materials be present on the development site, or used within the original construction of the building in question, it must be safely removed by a qualified contractor, with relevant transfer notes being obtained to confirm safe and responsible removal and disposal.

REASON: to protect the health of site workers and end users

Foul Drainage: The submitted application form advises a Sewerage Treatment Plant will be utilised as a way of disposing of foul waste; we would request, should the application be approved, that the Applicant / Agent, ensure the installation is fully compliant with the Environment Agency's Binding Rules and any other relevant Government guidance and British standards, in respect of these systems. Information on this can be found at: Septic tanks and treatment plants: permits and general binding rules: The general binding rules - GOV.UK (www.gov.uk). It is strongly recommended these rules are complied with, as they will minimise any potential nuisance to nearby residential dwellings, assist in preventing a potential Public Health nuisance, and minimise the potential for adverse incidents, of which may result in formal enforcement action.

REASON: to protect the health of residents and nearby residential premises

Construction Activities: In order to minimise potential nuisance caused by demolition/construction works, Environmental Protection recommend that the following below is conditioned;

- No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.
- No materials produced as a result of the site development or clearance shall be burned on site.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

REASON: to protect the amenity of nearby residential premises

Thank you for re-consulting Place Services on the above application.

No objection subject to securing:

- a) a proportionate financial contribution towards Essex Coast RAMS
- b) biodiversity mitigation and enhancement measures

Summary

We have reviewed the Ecological Survey and Assessment (Essex Mammal Surveys, July 2022), MAGIC maps (<https://magic.defra.gov.uk/>), and aerial photography relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures.

The site falls within the evidenced recreational Zone of Influence (ZOI) of Colne Estuary Ramsar and SPA. Therefore, given the residential nature of this development is relevant to the Essex Coast RAMS, we note that the LPA has prepared a project level HRA Appropriate Assessment to secure a per dwelling tariff by a legal agreement for delivery of visitor management measures at the designated sites. This will mitigate for predicted recreational impacts in combination with other plans and projects and avoid Adverse Effect on Integrity of the designated habitat sites.

We are now satisfied that there is sufficient ecological information available for determination of this application.

This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

The mitigation measures identified in the Ecological Survey and Assessment (Essex Mammal Surveys, July 2022) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly nesting birds.

We note that there is a Priority deciduous woodland directly adjacent to the west of the site.

Therefore, to mitigate further potential impacts, especially through dust and pollution events to this Priority habitat as well as other retained habitat within and around the site, a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) should be produced and secured by condition of any consent. Furthermore, a pond is present 180m west of the site and the site lies within an Amber Risk Zone for the Great Crested Newt (GCN) District Level Licensing (GCN Risk Zones (Essex) | Natural England Open Data Geoportal (arcgis.com)). As suitable terrestrial and aquatic habitats are present and in close proximity to the site, it is considered possible that GCN will be present. GCN should therefore be considered as part of this planning application. However, considering that, suitable terrestrial habitat for GCN (Deciduous woodland) exists between the site and the pond, the current management regime of the site, the type of development and area impacted, we recommend that potential impacts upon GCN are managed under a precautionary method statement for GCN for the

construction stage, including storage of materials. This precautionary method statement should be included in the CEMP:

Biodiversity

We also support the proposed reasonable biodiversity enhancements of two bird nesting boxes, two solitary beehive, one hedgehog box and hedgehog friendly fencing, which have been recommended by the Ecological Survey and Assessment (Essex Mammal Surveys, July 2022) to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

In addition, the Ecological Survey and Assessment (Essex Mammal Surveys, July 2022) highlights that it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be proposed, it is recommended that a sensitive lighting scheme is developed to minimise any impacts. This should summarise the following measures will be implemented:

- o Light levels should be as low as possible as required to fulfil the lighting need.
- o Warm White lights should be used at <3000k. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
- o The provision of motion sensors or timers to avoid the amount of 'lit-time' of the proposed lighting.
- o Lights should be designed to prevent horizontal spill e.g. cowls, hoods, reflector skirts or shields.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006. Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013.

We recommend that submission for approval and implementation of the details below should be a condition of any planning consent.

Recommended conditions

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Survey and Assessment (Essex Mammal Surveys, July 2022) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."

Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife &

Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

2. PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY

"A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements include for Great Crested Newt).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority"

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species)

3. PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

"A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter."

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species) and if any external lighting is to be proposed.

4. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

"A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting plans, drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority."

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

ECC Highways Dept
05.10.2022
(additional comments
following submission of
revised plans)

The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated April 2010. It is noted that this application is similar to a previous application for a holiday let approved in 2016 with a new private vehicular access from Rectory Road which is subject to a de-restricted speed limit. Unlike the previous application the new proposal is for a full-time residential property; the revised proposal is to utilise the existing vehicular access for the host dwelling and similar to the original proposal we have no evidence to determine that this is acceptable. The location has an established hedgerow that is in excess of 2 metres in height and only set back no more than 1 metre from the carriageway edge.

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

1. Similar to the previous application and based on the information provided the applicant has failed to demonstrate adequate visibility splays from the proposed access in accordance with the speed of the road, to the satisfaction of the Highway Authority. The lack of such visibility would result in an unacceptable degree of hazard to all highway user to the detriment of highway safety.
2. The proposal would intensify the use of an existing access onto Rectory Road (local road) where visibility, from the proposed site access and forward visibility along Rectory Road, is not in accordance with current safety standards.

The main function of this highway is to safely provide local access and movement for people and goods. The existence of an access in this location is a matter of fact and therefore some degree of conflict and interference to the passage of through vehicles already occurs but the intensification of that conflict and interference which this proposal would engender would lead to a deterioration in the efficiency of the through road as a traffic carrier to the detriment of highway safety.

The proposal is therefore contrary policies DM1, and DM4 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: As far as can be determined, there is no information provided on the visibility splays for the vehicular access or the extent of the publicly maintainable highway to determine whether adequate visibility splays can be provided within the limits of public highway and/or land in the control of the applicant.

2: The applicant would need to conduct a speed survey in accordance with CA 185 Vehicle Speed Measurement (Design Manual for Roads and Bridges), to establish the 85th percentile speed of the road and provide visibility splays in accordance. Speed surveys should be taken at the extent of the achievable visibility splays.

3: A Highway Boundary Plan should be obtained from ECC Highway Records to establish the line of the highway boundary to the front of the development site splay distance in both directions as measured from and along the nearside edge of the carriageway to establish whether or not the appropriate visibility splays can be achieved. Email address Highway.Status@essexhighways.org visibility splays must be achieved within the limits of public highway and/or land in the control of the applicant.

4: A Site Access as Proposed Layout Plan, shall be provided, which shows the appropriate clear to ground visibility splays in both directions with a minor or "X" distance of 2.4 metres by "Y" distance:

- a. "Y" distance appropriate for vehicle speeds travelling along Rectory Road on the approach to the proposed access (vehicles approaching from the south) as determined from the outcome of the speed survey for the measured 85th percentile speeds.
- b. "Y" distance appropriate for vehicles travelling along Rectory Road on the non-approach to the proposed access (vehicles approaching from the north-east).
- c. The location points of the speed measurement must be shown on a Site Layout Plan and the speed data must be appended.

5: It is likely that part of the hedgerow across the site frontage of the proposed access will need to be removed and/or reduced in height or a replacement hedge planted a minimum of 1 metre back from the highway boundary and any visibility splay.

6: For a shared vehicular access we would be looking at a private drive constructed to a width of 5.5 metres for at least the first 6 metres from the back of carriageway and provided with an appropriate vehicular crossing. 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. This information supplied doesn't appear to show this.

7: Due to the length and width of the existing private drive it is likely that the introduction of at least two informal passing places will be required if the drive is going to be shared between two properties, there is no information relating to this.

Clearly if the applicant does commission additional work there is no guarantee that the required standards can be met or that the proposal will be acceptable to the Highway Authority.

As indicated in our email to the Local Planning Authority dated 25 August 2022, the Highway Authority reserves making a recommendation until such time as the above information has been considered and provided.

3. Planning History

01/00429/FUL	Conversion of former agricultural building into 2 holiday units		07.08.2001
16/01514/FUL	Proposed conversion of former poultry unit to holiday lets (including new vehicular access).	Approved	21.12.2016
18/01005/LUEX	Use of dwelling as a domestic residence by persons not working in agriculture.		25.07.2018

4. Relevant Policies / Government Guidance

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

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

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

DI1 Infrastructure Delivery and Impact Mitigation

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

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

In relation to housing supply:

The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the 'tilted balance').

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

5. Officer Appraisal

Site Description

The application site is located on western side of Rectory Road in the parish of St Osyth. The area is rural in character and comprises of a scattering of dwellings on large vegetated plots. The site itself forms part of the curtilage of 'Bushwood', which is a residential dwelling, and is set within its own field, and has extensive established hedgerow and treed boundaries. Bushwood is

served via an existing access located at the south-eastern corner of the site. The building to be converted is a single storey former poultry shed, which measures 18.7 metres by 7.2 metres.

The site falls outside of a recognised Settlement Development Boundary, within the nearest being Weeley Heath approximately 0.9 miles to the north.

Description of Proposal

This application seeks planning permission for the conversion of the existing former poultry shed building, into a residential dwelling to be served by four bedrooms. The conversion will involve replacing some external materials, as well as replacement/new doors and windows.

The proposal also involves a new access road to the south of the building which connects with an existing field access to Rectory Road.

Site History

In December 2016, under planning reference 16/01514/FUL, permission was previously granted to convert the building subject of this application into two holiday lets. However, this permission was never implemented and has since lapsed.

Assessment

1. Principle of Development

There has been a significant recent change in national and local plan policy, with the Council having recently adopted its Local Plan to cover the period of 2013-2033 and 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, being approximately 1.5 kilometres outside of the settlement boundary of Weeley Heath to the north, and approximately 1.7 kilometres outside of the Little Clacton settlement boundary. The proposed development would therefore extend far beyond the area planned to provide growth for this settlement and cannot be considered an appropriate site for housing.

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 and environmental strands 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.

However, within their Planning Statement the applicant refers to the requirements of Paragraph 80(c) of the National Planning Policy Framework (NPPF) (July, 2021), which states that planning policies and decisions should avoid the development of isolated homes in the countryside unless the development would re-use redundant or disused buildings and enhance its immediate setting. The Planning Statement adds that the scheme is reliant on this exception of special circumstance.

Reference within the Planning Statement is further made to Section 5.7.3 of the Adopted Local Plan (Section 2), which states "*Paragraph 55 of the National Planning Policy Framework requires Councils to avoid new isolated homes in the countryside unless there are special circumstances which, amongst others, can include the "exceptional quality or innovative nature of the design of the dwelling"*".

In response to this, Officers acknowledge the criteria contained within paragraph 80(c) of the NPPF and agree that the proposal would result in the re-use of a redundant or disused building, following confirmation within the Planning Statement that the building has not been used productively for a number of years. Photographic evidence provided in support of the application further clarifies the building is not in use.

In response, Officers do not agree that special circumstances exist here, or that the proposal is not of an exceptional quality or of an innovative nature in terms of its design. The proposal would also not enhance the areas immediate setting to such a degree that it would justify setting aside the provisions of key policy SP3 as outlined above. Specifically the existing building is of no special visual merit, and the proposed design, which sees relatively minor alterations, will not be of an exceptional quality or innovative nature. Therefore Officers do not accept that the proposal would enhance the immediate setting of the site, and the development would therefore be contrary to the above national and local planning policies.

In addition, the Planning Statement refers to the previous planning permission (16/01514/FUL) as a material consideration on the basis that the previous permission included an all year round use, which "*effectively permitted a permanent residential occupation of the building*". This view is strongly contested by Officers; firstly, the planning permission referred to was never implemented and has since lapsed, therefore no weight can be attributed to this, and secondly, the (now expired) approval was for a holiday let use which restricted any person from staying beyond 28 days, and therefore does not equate to a permanent residential dwelling in the countryside.

2. Design, Layout and Appearance

Paragraph 130 of the National Planning Policy Framework (NPPF) (2021) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Adopted Policy SPL3 Part A (b) requires that development relates well to its site and surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials.

The building in question is set back a significant distance from the highway and is therefore not publicly visible from Rectory Road. In any case the building is redundant and in a fairly poor state of repair, and the changes proposed including the replacement and addition of new doors and windows as well as replacement external materials, would enhance its appearance.

The proposal also includes for a new access point from the southern section of the building, however this will connect and therefore be an extension to the existing field access which currently connects to Rectory Road. This in itself will not result in significant visual harm that would warrant recommending a reason for refusal.

3. Impact to Trees

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

"No trees or other significant vegetation will be adversely affected by the development proposal.

The proposed change of use of the existing structure will not require any works to trees and the site is well screened from the highway by intervening vegetation.

There is little benefit to be gained by additional soft landscaping as existing vegetation provides a good level of screening."

4. 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.

The application site is located in a rural location and as such there are few nearby neighbouring properties, with the nearest being sited approximately 150 metres to the east. Given such a significant separation distance, and the single storey nature of a building already in situ, there is not considered to be any significant impacts in respect of overlooking, loss of daylight/sunlight or the dwelling appearing oppressive. Officers therefore raise no objections in this regard.

5. Highway Safety

Paragraph 108 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 111 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

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

Essex Highways Authority have been consulted on the application, and have raised an objection as the proposal would result in the intensification of an existing access onto Rectory Road, and no evidence has been provided to demonstrate that this is acceptable in highway terms. Furthermore, evidence is required to demonstrate what visibility splays can be achieved from the proposed access, with an expectation of 2.4m x 215m in both directions. Essex Highways Authority have clarified that there could be a relaxation to these figures following the undertaking of a speed survey to demonstrate this, however no evidence of this has been provided.

The proposed development therefore fails to demonstrate adequate visibility splays from the proposed access in accordance with the speed of the road, which would result in an unacceptable degree of hazard to all highway users to the detriment of highway safety. Furthermore, the proposal would intensify the use of an existing access which has deficiencies in geometric layout and visibility which is not in accordance with current safety standards. The intensification of that conflict and interference which this proposal would generate would lead to a deterioration in the efficiency and condition of the road to the detriment of highway safety, which is to the serious detriment of highway safety and fails to accord with the above national and local planning policies.

6. Ecology

Paragraph 174 of the Framework states planning decisions should contribute to and enhance the natural and local environment, by minimising impacts and providing net gains for biodiversity.

Paragraph 180(a) of the NPPF confirms that in assessing planning applications where significant harm to biodiversity as a result of a development cannot be avoided, adequately mitigated or, as a last resort, compensated for, then planning permission should be refused

Adopted Policy SP7 requires that all new development should incorporate biodiversity creation and enhancement measures. Adopted Policy SPL3 Part A(d) includes that the design and layout of development should maintain or enhance ecological value.

Following consultation, ECC Place Services (Ecology) initially raised a holding objection given that no ecological assessment had been provided. To address this, the applicant then submitted an

Ecological Survey and Assessment, and upon re-consultation ECC Place Services (Ecology) have removed their earlier objection and support the application subject to the inclusion of conditions.

7. Drainage

Paragraph 174 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution.

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.

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.

In relation to non-mains drainage from non-major development the Environment Agency's advice is that to comply with the Framework and Planning Practice Guidance (PPG) on foul drainage matters, an LPA needs to be satisfied that foul drainage can be provided without adverse impact on the environment. Where a connection to a public sewer is not reasonable, the PPG sets out the following hierarchy of non-mains alternative solutions.

- Package sewage treatment plants (which may be offered to the sewerage undertaker for adoption),
- Septic tanks; and
- Cesspools (if no other solution is possible).

Question 11 of the application form states that it is not intended to connect to a mains sewer. Instead, foul sewage will be disposed of by way of a septic tank; such a declaration implies that a mains connection is not possible.

However, no details of the design of the septic tank have been provided, and no FDA1 Foul drainage assessment form has been received to demonstrate why connection to either a mains connection or through use of a package sewage treatment plant is not possible. The application has therefore failed to adhere with the hierarchy of non-mains alternative solutions and demonstrate that the development can be served by appropriate sewage disposal provision, and is therefore contrary to the above-mentioned national and local plan policies.

8. Financial Contributions - Open Space and RAMS

(i) Open Space

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

Section 2 Policy HP5 states that the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update. Financial contributions will also be sought through s106 legal agreements (or an appropriate alternative mechanism) towards ongoing maintenance.

In line with the requirements of Section 2 Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that there is currently a deficit of 2.18 hectares of equipped play/formal open space in Weeley, however no contribution is requested on this occasion.

(ii) Habitat Regulations Assessment

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

The application scheme proposes a residential on a site that lies within the Zone of Influence (Zoi) being approximately 4.3 kilometres from Colne Estuary RAMSAR and SPA and Essex Estuaries SAC. New housing development within the Zoi would be likely to increase the number of recreational visitors to these sites and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A 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.

Other Considerations

St Osyth Parish Council have no objections.

There have been no other letters of representation received.

Conclusion

The application site lies outside of a defined settlement boundary in the 2013-2033 Local Plan, being approximately 1.5 kilometres outside of the settlement boundary of Weeley Heath to the north, and approximately 1.7 kilometres outside of the Little Clacton settlement boundary. In addition, while the applicant has attempted to demonstrate that the proposal would result in the re-use of a redundant or disused building and would result in an enhancement to its immediate setting, Officers disagree with this position for the reasons outlined in the main body of the report above. Accordingly the principle of development is not accepted. Furthermore, it has not been adequately demonstrated that the development can be served by appropriate sewage disposal provision, and an outstanding objection from Essex Highways Authority due to a lack of evidence demonstrating sufficient visibility splays or access width. 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, being approximately 1.5 kilometres outside of the settlement boundary of Weeley Heath to the north, and approximately 1.7 kilometres outside of the Little Clacton settlement boundary. The creation of a new dwelling in this location would extend beyond the area planned to provide growth for these settlements and cannot be considered an appropriate site for housing.

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 and environmental strands 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.

Paragraph 80(c) of the National Planning Policy Framework (NPPF) (July, 2021) states that planning policies and decisions should avoid the development of isolated homes in the countryside unless the development would re-use redundant or disused buildings and enhance its immediate setting. The Planning Statement adds that the scheme is reliant on this exception of special circumstance.

The site is located within a rural agricultural setting. The existing building is of no special visual merit, and the proposed design, which sees relatively minor alterations, will not be of an exceptional quality or innovative nature. Therefore the proposal would not sufficiently enhance the immediate setting of the site to justify a departure from the statutory plan-led approach as set out in policy SP3, and the development would therefore be contrary to the above national and local planning policies.

- 2 Paragraph 108 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 111 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

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

The proposed development fails to demonstrate adequate visibility splays from the proposed access in accordance with the speed of the road, which would result in an unacceptable degree of hazard to all highway users to the detriment of highway safety. Furthermore, the proposal would intensify the use of an existing access which has deficiencies in geometric layout and visibility which is not in accordance with current safety standards. The intensification of that conflict and interference which this proposal would generate would lead to a deterioration in the efficiency and condition of the road to the detriment of highway safety, which is to the serious detriment of highway safety and fails to accord with the above national and local planning policies.

- 3 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.

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.

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.

In relation to non-mains drainage from non-major development the Environment Agency's advice is that to comply with the Framework and Planning Practice Guidance (PPG) on foul drainage matters, an LPA needs to be satisfied that foul drainage can be provided without adverse impact on the environment. Where a connection to a public sewer is not reasonable, the PPG sets out the following hierarchy of non-mains alternative solutions.

- Package sewage treatment plants (which may be offered to the sewerage undertaker for adoption),
- Septic tanks; and
- Cesspools (if no other solution is possible).

Question 11 of the submitted application form states that it is not intended to connect to a mains sewer. Instead, foul sewage will be disposed of by way of a septic tank. However, no details of the design of the septic tank have been provided, and no FDA1 Foul drainage assessment form has been received to demonstrate why connection to either a mains connection or through use of a package sewage treatment plant is not possible. The application has therefore failed to adhere with the hierarchy of non-mains alternative solutions and also failed to demonstrate that the development can be served by appropriate sewage disposal provision that will result in no harm to the environment. As such, the proposal is contrary to the above-mentioned national and local plan policies.

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.