

	Tendring Parish Council also note the comment in the Planning Statement that the proposal is for 2 four-bed houses for 8 people. The existing building has been rented out for many years and the Parish Council has a concern that this new proposal is actually for houses in multiple occupation, not single-family accommodation.
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2. Consultation Responses

Building Control and
Access Officer
04.07.2022

No adverse comments at this time.

ECC Highways Dept

The site is situated on the B1035 Heath Road that is subject to a 40-mph speed limit. The proposal would introduce a new shared vehicular access serving the two new dwellings it appears the visibility splays are outside the control of the applicant. To the west of the vehicular access is an established hedgerow in third party ownership and to the right the visibility splay appears to run across the frontage of the neighbouring property. The situation is not helped by the vehicular access being located on the inside of a sweeping bend as such the block plan indicates that the maximum visibility splays that can be achieved are 2.4 metres x 70 metres in both directions, but these have not been measured from and along the nearside edge of the carriageway.

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority.

UU Open Spaces
27.07.2022

Response from Public Realm Open Space & Play

There is currently a deficit of '1.33 hectares of equipped play/formal open space in the village of Tendring.

There is only one play area in Tendring, located in Heath Road.
Recommendation

No contribution is being requested on this occasion. Should there be further development in the area a contribution may be required.

Environmental Protection

Demolition and Construction Method Statement: The applicant (or their contractors) shall submit a full demolition and construction method statement to, and receive written approval from, the Environmental Protection, this document should include, but not be limited to the following information –

• **Noise Control**

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- 2) 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 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement,

- be compliant with the standards laid out in British Standard 5228.
- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
 - 5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
 - 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

• **Emission Control**

- 1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- 2) No materials produced as a result of the site development or clearance shall be burned on site.
- 3) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- 4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

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: In the interest of protecting residential amenity

• **Contaminated Land**

Given the sites proximity to historic agricultural land, 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; 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.
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 ensure that any risks (to future users of the land and neighbouring land and to controlled waters, property and ecological systems) arising from any land contamination are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

3. Planning History

95/00335/FUL	(Highland House Farm, Heath Road, Tendring) Retention of extension to existing shed/workshop	Approved	30.05.1995
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05/00920/FUL	Redevelopment to provide 36 dwellings together with access road, parking areas, landscaping and ancillary works.	Refused	12.07.2005
05/00946/FUL	Redevelopment to provide 36 dwellings together with access road, parking areas, landscaping and ancillary works.	Refused	12.07.2005
22/01012/FUL	Proposed demolition of existing property and erection of 2 no. 4 bed detached dwellings including new vehicular access road.	Current	

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
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP1 Housing Supply
- LP4 Housing Layout
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- CP1 Sustainable Transport and Accessibility

Supplementary Planning Documents

Local Planning Guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

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 site comprises a 927sqm parcel of land on the south side of Heath Road (B1035), just under a mile south east of its junction with the A120 at Horsley Cross. The site currently comprises a single detached dwelling. The house appears to be of late eighteenth/early nineteenth century era.

The rear of the site comprises a large haulage depot, accessed by way of a driveway to the west of the host dwelling. The entire site is under one ownership and there is an (as yet) undetermined application which seeks planning permission to change the use of the rear of the site to B1(c)/Class E Light Industrial and the construction of a new factory.

Description

The application proposes the demolition of the dwelling and the construction of two detached dwellings.

	Plot 1	Plot 2
Footprint	133sqm	133sqm
Floorspace	257sqm	257sqm
Walls	Facing brick, brick plinth	Self-coloured render, brick plinth
Roof	Grey concrete tile	Grey concrete tile
Ridge	10m	10.1m
Eaves	5.7m	5.6m
Parking	Integral garage plus two surface	Integral garage plus two surface
Features	Dual pitch front gable, covered porch	Dual pitch front gable, covered porch

During the determination of the application it was advised that the scheme should be amended in order that a single replacement dwelling was proposed and a one-month extension of time was agreed in order that revised amended plans could be submitted. No plans were forthcoming and the application is determined on the basis of the original submission.

Assessment

The main planning considerations are:

- Principle of Development;
- Layout, Scale and Appearance;
- Residential Amenities;
- Highway Considerations;
- Rural Landscape
- Water Conservation, Drainage and Sewerage
- Financial Contributions – RAMS
- Financial Contributions – POS
- Representations

Principle of Development

The Tendring District Local Plan 2013-2033 and Beyond (the Local Plan) ‘North Essex Authorities’ Shared Strategic Section 1’ sets out the strategic level spatial strategy for North Essex. Local Plan Policy SP3 states [Emphasis added]:

“Existing settlements will be the principal focus for additional growth across the North Essex Authorities area within the Local Plan period. Development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area.”

Future growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. Re-use of previously developed land within settlements is an important objective, although this will be assessed within the broader context of sustainable development principles, particularly to ensure that development locations are accessible by a choice of means of travel.

In Section 2 of its Local Plan each local planning authority will identify a hierarchy of settlements where new development will be accommodated according to the role of the settlement, sustainability, its physical capacity and local needs.

Beyond the main settlements the authorities will support diversification of the rural economy and conservation and enhancement of the natural environment.

As part of the sustainable strategy for growth, the Tendring / Colchester Borders Garden Community will be developed and delivered at the broad location shown on Key Diagram 10.2 and on the Colchester and Tendring Local Plans Policies Maps. This new community will provide a strategic location for homes and employment within the Plan period in North

Essex. The expectation is that substantial additional housing and employment development will be delivered in the Garden Community beyond the current Local Plan period.”

Section 2 of the Local Plan sets out the hierarchy of settlements for Tendring where new development will be accommodated [Emphasis added]:

“Growth needs to be carefully managed so as not to lead to unsustainable developments in remote and poorly accessible locations. The settlement hierarchy prioritises locations with access to the strategic road network, public transport and which have the potential to offer the widest range of services. All settlements which may experience growth have a development settlement boundary. Those without a settlement development boundary are considered to be part of the countryside.” (Paragraph 3.3.1)

Policy SPL1 ‘Managing Growth’ identifies Tendring as a ‘Smaller Rural Settlement’. The associated text states [Emphasis added]:

“Other smaller villages within Tendring District’s rural heartland have much less in the way of job opportunities, local services, facilities and other infrastructure. Residents of these smaller villages are often reliant on neighbouring towns and villages for work, shopping and other services and frequently need to travel distances either by public transport (if it is available) or, more often than not, by private car.

Because of this, these smaller villages are considered to be the least sustainable locations for growth and there is a concern that encouraging too much development in these areas will only serve to increase the number of people having to rely on cars to go about their everyday lives. However, these villages are still under pressure to grow and some small-scale development which is sympathetic to the rural and often historic character of the settlement might help younger people to continue to live in the area, keep local shops and services viable and help bring balance to any ageing population. Particular attention must be given to school travel and any expansion of existing rural schools.

Each of these smaller rural settlements can achieve a small scale increase in housing stock over the plan period. To allow for this to happen, Settlement Development Boundaries have been drawn flexibly, where practical, to accommodate a range of sites both within and on the edge of the villages and thus enabling them to be considered for small-scale residential ‘infill’ developments, provided that it does not detrimentally impact the historic and natural environment.

Developments which exceed 10 dwellings in size will not be permitted unless there is local support from the Town or Parish Council, an approved Neighbourhood Plan that advocates additional growth or an identified local need for affordable housing that could be addressed through a ‘rural exception site.’ (Paragraphs 3.3.1.4.1 to 3.3.1.4.4)

The associated text to Policy SPL1 also states [Emphasis added]:

“To achieve a sustainable increase in housing stock for each of Tendring District’s settlements up to 2033, a high level of new homes have gained planning permission or will have been completed on sites between 1 April 2013 to 31 March 2020. The remaining requirement will be delivered on sites that are specifically allocated for housing development, supplemented by other suitable sites within the Settlement Development Boundaries in this Local Plan. The allocated sites either lie within the established built-up area of the settlement or involve undeveloped land on the edge of the settlement. Alongside the planned developments, it is likely that a number of currently unidentified ‘windfall’ sites will obtain planning permission for housing in accordance with the policies in this Local Plan during the plan period.” (Paragraph 3.3.2.1)

Policy SPL2 ‘Settlement Development Boundaries’ states [Emphasis added]:

“To encourage sustainable patterns of growth and carefully control urban sprawl, each settlement listed in Policy SPL1 (with the exception of the Tendring Colchester Borders

Garden Community) is defined within a 'Settlement Development Boundary' as shown on the relevant Policies Map and Local Map. Within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans.

Outside of Settlement Development Boundaries, 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.

An exemption to this policy is provided through the Rural Exception Site Policy LP6. [An exemption is also provided through Policy LP7 'Self-Build and Custom-Built Homes'].

The Tendring Colchester Borders Garden Community will be the subject a separate Development Plan Document (DPD) containing its own policies designed to guide the location of development in the broad location identified on Diagram 10.2 in Section 1 of the Local Plan and Map B.7."

The associated text to Policy SPL2 states [Emphasis added]:

"To achieve a sustainable increase in housing stock, a significant number of new homes will come forward on sites which at April 2020 already had extant planning permission for new housing. The remaining requirement will be delivered on sites that are specifically allocated for housing or mixed-use development, supplemented by other suitable sites within the Settlement Development Boundaries in this Local Plan. Alongside the planned developments, it is likely that a number of currently unidentified 'windfall' sites will obtain planning permission for housing in accordance with the policies in this Local Plan during the plan period. In general terms, development outside of defined Settlement Development Boundaries will be the subject of strict control to protect and enhance the character and openness of the countryside. However, there are certain forms of development that can and sometimes need to take place in these areas, some of which can bring about positive outcomes for the rural economy." (Paragraph 3.3.3.1)

In this case, the proposal is for two dwellings which are (a) not described as self-build and (b) some 3,000m from the edge of Tendring's settlement development boundary and for these reasons the proposal cannot be assessed against Policy LP7.

Policy SPL2 of the Adopted Local Plan provides an exemption to its requirements through the Council's Rural Exceptions Site Policy (Policy LP6). There is no evidence that the proposed development would be for an affordable housing scheme or for accommodation for a rural worker. As a result, the proposal would not meet the requirements of Policy SPL2 to justify an exception in this case.

Material Considerations:-

Appeal Reference APP/P1560/W/21/3281960 (20/00822/FUL) for development at 'The Laurels', Parsonage Lane, Tendring CO16 0DE; the development site is approximately 985m from the application site.

In Paragraph 20 the Inspector observed that "The appeal site lies within an established settlement and is a "sustainable" location, in planning terms." And "the site is surrounded by existing development". Notwithstanding this; at the time the decision was made by the Planning Committee the site was inside the Settlement Development Boundary of Tendring Heath. During the determination of the appeal by the Section 2 of Tendring District Local Plan 2013-2033 and Beyond was adopted which removed the development boundary of Tendring Heath. The development boundary of the hamlet of Tendring is now the closest and is a significant 3,006m away. On the grounds that the two matters under consideration by the Inspector were limited to highway safety and neighbour amenity only, the location of the development was not under consideration and the circumstances of the immediate locale being very different (surrounded by

existing development versus just one existing dwelling to the west in this case) the appeal decision is awarded limited weight.

Appeal Reference APP/P1560/W/16/3165144 (16/01044/OUT) for development at 'Stones Green Road, Tendring CO16 0DD; the development site is immediately opposite the application site.

In establishing that (in preceding Paragraph 6), "The Council accepts that it is currently unable to demonstrate a 5 year supply of deliverable housing sites. Consequently, LP Policy QL1 should not be considered up-to-date and I afford it limited weight." Paragraph 7 states that "Paragraph 14 of the Framework sets out the presumption in favour of sustainable development as: where the development plan is absent, silent, or, as in this case, relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole." On the grounds that the Council is able to report a comfortable surplus of housing land supply over the 5-year requirement and the credentials of a site's sustainability (social, economic and environmental) are no longer required the circumstances of this appeal are materially different the appeal decision is awarded limited weight.

Appeal Reference APP/P1560/W/21/3276761 (20/01027/FUL) for development at The Fat Goose, Heath Road, Tendring, Essex CO16 0BX; the development site is 18m from the application site.

The Inspector reasons that "Although Tendring Heath is without a SDB, it is nonetheless a small hamlet where this proposal will be the infilling of a short length of developed frontage, near to where other new housing has recently been allowed. As such, this would not be a sporadic development in the countryside and, as very obvious infill, be clearly centred within an existing focus of housing. Therefore, the extent to which this proposal conflicts with the spatial strategy, results in a negligible degree of harm in this particular case." On the grounds that the Council is able to report a comfortable surplus of housing land supply over the 5-year requirement and the credentials of a site's sustainability (social, economic and environmental) are no longer required the circumstances of this appeal are materially different the appeal decision is awarded limited weight.

Appeal Reference APP/P1560/W/21/3282526 (21/00063/FUL) for development at 'Land East of Wolves Hall Lane, Tendring, CO16 0DG; the development site is 1,119m from the application site.

In paragraph 11 the Inspector reasons that Tendring is a small settlement with some limited facilities and services which are unlikely to be capable of sustaining the everyday needs for the future occupiers of the development. The nearby settlements of Weeley and Thorpe Le Soken both benefit from a range of services, including schools, shops and public house." In similar circumstances to the application site the Inspector reasons that "given the distance from the site to these it would be unlikely that you would walk or cycle. There is a bus stop approximately within walking distance of the appeal site and the appellant has provided a bus timetable which indicates that there are two routes which run intermittently throughout the day, with some services being within hourly and some 2 hourly depending on whether you were going to Colchester or Clacton. The services are less regular at the weekends." In drawing the matter to a close the Inspector reasons "Whilst this would be an available alternative to the private car, having regard to their frequency and in particular the limited availability in the evenings and weekend, the bus service would be unlikely to be a realistic substitute to the convenience of a private car." The Inspector concludes the matter with stating "I consider that the site is less than ideally located in terms of access to services, facilities and amenities and occupiers are likely to prefer the convenience of a private car. As a result, there would be minor negative environmental and social effects arising from the location in terms of the use of natural resources and the accessibility of local services. This is an adverse matter to which I afford moderate weight."

The application site is one bus stop further along the route than the service referred to so the comments made by the Inspector are entirely relevant in this case.

For these reasons, the replacement of the host dwelling with two dwellings would fail to adhere to the relevant policies relating to housing in rural areas. It would conflict with SP1 and SP3 of the adopted Local Plan which seeks to direct development to the most appropriate locations. The

development would also conflict with policies SPL1 and SPL2 of the Local Plan which sets out the settlement strategy for Tendring.

Layout, Scale and Appearance

Section 1 Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Section 2 Policy SPL3 of the 2013-33 Local Plan also requires, amongst other things, that the development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Section 2 Policy LP4 requires that the design and layout of new residential and mixed-use developments in the Tendring District will be expected to deliver new dwellings that are designed to high standards of architecture, which respect local character and which together with a well-considered site layout, create a unique sense of place. Paragraph 130 of the Framework requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

Dwellings in the locale are two-storey in scale, detached, have east-west running ridges, front gable features and are finished externally in a variety of materials which include traditional red brick, self-coloured smooth render and horizontal weatherboarding in a number of colours. For these reasons the scale, siting and external appearance of the dwellings would respond positively to local character and context, would respect land be sympathetic to local character.

Neighbouring Amenities

The NPPF, at paragraph 130 states that development 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. Section 1 Policy SP7 of the Tendring District Local Plan 2013-2033 requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking. Section 2 Policy LP4 requires that new residential developments will be expected to provide for private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area.

Plot 1 would be sited approximately 1.8m from the boundary with Nekada and the front façade would be around 8.2m further southwards than the existing dwelling (which is around 1.8m southwards from the front boundary). For this reason the siting of the new dwelling may result in a marginal improvement of the outlook from Nekada’s forward-facing windows. Plot 1’s rear façade would finish approximately in line with that of Nekada and there are no side facing windows in the right hand flank of Nekada.

Plot 2 would be sited approximately 10m from the flank elevation of Lilac Cottage, separated by the vehicular access serving the existing Haulage yard to the rear. There are no side facing windows in the left hand flank of Lilac Cottage

Space Standards:-

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 standard.

	No. of Bedrooms	No. of Bed Spaces	Storeys	Min Requirement	Actual Floorspace	Compliance
Plot 1	4	8	2	124sqm	257sqm	yes
Plot 2	4	8	2	124sqm	257sqm	yes

The gardens would be south facing and in the region of 180sqm; the size and configuration would be commensurate with other dwelling in the area.

Overall the development is likely to result in a high standard of amenity for existing and future users which would protect the amenity of existing and future residents and users with regard to loss of light, overbearing and overlooking.

Rural Landscape

Section 2 Policy PPL3 of the Tendring District Local Plan 2013-2033 states that, in order to promote sustainable development, in considering where to select sites for new development in this Local Plan, the Council has taken particular care to assess the value of the landscape and, where practical, allocate sites with the lowest sensitivity, thereby helping to protect valued landscapes and the best and most versatile agricultural land. The Landscape Character Assessment (2001) identified 30 areas with different landscape characteristics and highlighted key sensitivities which need to be considered when assessing development proposals in the rural area. Proposals within the rural landscape should have regard to the Landscape Character Assessment (and any subsequent updates) and protect and re-inforce historic landscape features and important characteristics identified within it.

The Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance, including to estuaries, rivers and undeveloped coast.

The site is within one of the thirty such areas defined in The Landscape Character Assessment, being Heathland Plateaux; these areas are typically large scale, flat agricultural plateaux, generally above 25m AOD, covering a large part of the western half of the Tendring District.

The Heathland Plateaux are typically characterised by scattered halls/churches, rural farms and villages. The pattern of halls/churches indicates an ancient settlement pattern, and the feudal system. Agricultural barns are distinctive landscape features in this area and often form landmarks. Many villages evolved from the manors. Other villages developed as farmsteads settled on the edges of greens, commons and heaths. Subsequent loss of heaths and infilling of village greens has progressively altered the character of these settlements, but their names often give a clue as to the origin of the settlement.

Tendring Heath is located in St Osyth/Great Bentley Heaths (7B) where key characteristics can include:- highly productive open plateau of arable fields divided by low, gappy hedgerows with occasional hedgerow oaks, ancient settlement pattern of scattered farmsteads, hamlets and villages, the villages traditionally focussed around a village green, heath or common. The low density, rural settlement pattern of scattered farmsteads, hamlets and villages is an ancient one. The villages are traditionally focussed around a village green, heath or common although many of these have been infilled by inter-war small holdings or more recent housing so that their structure is no longer visible. One of the negative changes which has occurred is the infilling of village greens and former heaths with built development leading to loss of settlement structure, communal areas and village focus.

The landscape strategy for this the rural landscape of the St. Osyth/Great Bentley Heaths is to conserve the rural character and historic elements of the landscape and to conserve the historic dispersed settlement pattern of hamlets and scattered farmsteads and the identity of individual settlements.

In regards to the Rural Landscape, the location of the development has similarities to application 20/01027/FUL for development at The Fat Goose, Heath Road, Tendring, Essex CO16 0BX; the development site is 18m from the application site where an Inspector noted that the proposal "will be the infilling of a short length of developed frontage, near to where other new housing has recently been allowed. As such, this would not be a sporadic development in the countryside and, as very obvious infill, be clearly centred within an existing focus of housing."

For this reason and, in conjunction with the existing commercial activities at the rear of the site, the potential for harm to the rural landscape is not considered sufficient to warrant refusal on this basis.

Highway Considerations

Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. Paragraph 112 states that applications for development should (a) give priority first to pedestrian and cycle movements and (c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter. Paragraph 130 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. These objectives are supported adopted Policy SP7 of the Tendring District Local Plan 2013-2033.

The site is situated on the B1035 Heath Road that is subject to a 40-mph speed limit. The proposal would introduce a new shared vehicular access serving the two new dwellings it appears the visibility splays are outside the control of the applicant. To the west of the vehicular access is an established hedgerow in third party ownership and to the right the visibility splay appears to run across the frontage of the neighbouring property. The situation is not helped by the vehicular access being located on the inside of a sweeping bend as such the block plan indicates that the maximum visibility splays that can be achieved are 2.4 metres x 70 metres in both directions, but these have not been measured from and along the nearside edge of the carriageway.

From a highway and transportation perspective the impact of the proposal is not acceptable as it would introduce a new vehicular access onto Heath Road (secondary distributor) which has deficiencies in geometric layout for the proposed land use, where visibility from the proposed site access and forward visibility along Heath Road is not in accordance with current safety standards. The lack of adequate visibility in conjunction with the proposed access not being designed and constructed in accordance with the Design Manual for Roads and Bridges would result in an unacceptable degree of hazard to all highway users to the detriment of highway safety.

Water Conservation, Drainage and Sewerage

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.

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 PPG on foul drainage matters, an LPA needs to be satisfied that foul drainage can be provided without adverse impact on the environment. This requires ensuring that both those environmental risks outside of the control of the permit and the relevant considerations in the PPG are addressed. The LPA should also be mindful that the developer will need to address foul drainage matters to get their environmental permit and meet building control regulations. Therefore, they should be confident that it is likely that any necessary permits and approvals can be successfully obtained.

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 package treatment plant. No details have been received in regards to a particular brand of package treatment plant. It is noted that the planning application at The Fat Goose specified that foul sewage would be disposed of by connection to the mains sewer. As no Foul Drainage Assessment (FDA1) form was submitted, the Planning Authority cannot be satisfied that foul drainage can be provided without adverse impact on the environment.

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS):

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

The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 6,899 metres from Hamford Water SPA and Ramsar. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Hamford Water; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A unilateral undertaking has not been prepared to secure this legal obligation. It cannot therefore be established 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.

Public Open Space

Paragraph 56 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.

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Policy DI1 states that all new development should be supported by, and have good access to, all necessary infrastructure. Permission will only be granted if it can be demonstrated that there is sufficient appropriate infrastructure capacity to support the development or that such capacity will be delivered by the proposal. It must further be demonstrated that such capacity, as is required, will prove sustainable over time both in physical and financial terms. Where a development proposal requires additional infrastructure capacity to be deemed acceptable, mitigation measures must be agreed with the Local Planning Authority and the appropriate infrastructure provider. Such measures may include financial contributions towards Open Space.

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 no contribution is being requested from Open Spaces on this occasion.

Representations

One letter has been received in response to the publicity of this application.

rebuilding the property further back on its site would have a beneficial effect on the street scene & the vision up & down the B1035	Noted
I do object to the proposal to replace the existing single building with two new ones.	See Principle of Development section above

There is little to no infrastructure in the area & none of the previously agreed developments have improved that situation in a way of compensation.	Noted
The area of the Heath is outside of the development area in the agreed & posted Tendring District council local plan for the very purpose of protecting the character of that quiet rural hamlet from disappearing.	See Principle of Development section above
The pleasure of living at the Heath in the last 6 years has been constantly eroded by the sound of construction, the constant removal of topsoil & skips, the delivery of concrete & other materials & I, for one, will be very pleased when it finally comes to an end.	Noted; however Problems arising from the construction period of any works, e.g. noise, dust, construction vehicles, hours of working are covered by Control of Pollution Acts and little weight can be attributed to this objection as a material consideration in the determination of this application..
I have no issue with the existing house being rebuilt, but I do to the proposal for it to become two separate houses.	Noted; however the application is determined on the basis of the plans submitted.

The Parish Council object to the development on the grounds that the development site is outside of the Settlement Boundary, the village has few facilities and car transport would be the only viable option. The matter of this proposed development being in a location unsuitable for housing is discussed in detail in the Principle of Development section above.

Planning Balance, Conclusion and Recommendation

Due regard is given to the contribution that two dwellings would give to the Housing Land Supply however the weight given to this benefit does not justify departing from the development plan. The provision of two market-housing properties does not clearly outweigh the combined significant weight given to the identified conflict with the key and most important policies (as outlined above) governing the location of development. In addition, the proposal would lead to an unacceptable degree of hazard to all highway users to the detriment of highway safety, has failed to identify that a more appropriate method of disposing of foul sewage has not been considered and (in the absence of a signed Unilateral Undertaking in accordance with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD), the Council cannot be certain that the proposal would not harm habitat sites of ecological interest.

Refusal – Full for the following reasons.

6. Recommendation

Refusal - Full

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 some 3,000m outside of the defined settlement boundary for Tendring's in the 2013-2033 Local Plan. The proposed development would therefore extend beyond the area planned to provide growth for this settlement.

In view of the housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement. The proposal therefore gives rise to harm through failing to comply with a statutory plan-led approach to the location of future housing. In view of this, the proposal's conflict with policy gives rise to a significant degree of harm. The spatial strategy of Policy SP3 and place shaping principles of Policy SP7 reflect the National Planning Policy Framework (2021) sustainable development objectives

and the proposal's conflict with both is given full weight. The principle of development is therefore not acceptable in this location.

- 2 Paragraph 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.

Policy SPL3 (Part B) of the Adopted Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking. Adopted Local Plan Policy CP2 states proposals will not be granted planning permission if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.

The impact of the proposal is not acceptable as it would introduce a new vehicular access onto Heath Road (secondary distributor) which has deficiencies in geometric layout for the proposed land use, where visibility from the proposed site access and forward visibility along Heath Road is not in accordance with current safety standards. The lack of adequate visibility in conjunction with the proposed access not being designed and constructed in accordance with the Design Manual for Roads and Bridges would result in an unacceptable degree of hazard to all highway users to the detriment of highway safety.

- 3 Paragraph 180 of the NPPF 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. Package sewage treatment plants may only be considered if it can be clearly demonstrated by the applicant that discharging into a public sewer is not feasible (taking into account cost and/or practicability and whether the package treatment plant poses a risk to a designated site) in accordance with Approved Document H of the Building Regulations 2010. Section 2 Policy PPL5 of the Tendring District Local Plan 2013-2033 states that all new development must make adequate provision for drainage and sewerage.

It has not been clearly demonstrated by the applicant that discharging into a public sewer is not feasible.

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

8. Informatives

Positive and Proactive statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future.

Are there any letters to be sent to applicant / agent with the decision?		NO
Are there any third parties to be informed of the decision?		NO