

## DELEGATED DECISION OFFICER REPORT

| AUTHORISATION                               | INITIALS | DATE                  |
|---|----------|-----------------------|
| File completed and officer recommendation:  | AC / AL  | 31.10.22 / 25.11.2022 |
| Planning Development Manager authorisation: | JJ       | 02/12/2022            |
| Admin checks / despatch completed           | ER       | 02/12/2022            |

**Application:** 22/00947/FUL **Town / Parish:** Ardleigh Parish Council

**Applicant:** Mr and Mrs M Hayes-Burt

**Address:** Morrow Lane Nurseries Morrow Lane Ardleigh

**Development:** Proposed erection of single dwelling with detached double garage in lieu of Building B of application 19/01254/COUNOT.

### 1. Town / Parish Council

Ardleigh Parish Council  
14.09.2022

**Part 1:** Ardleigh Parish Council opposes this application as we consider it to be contrary to both the Tendring Local Plan and the emerging Ardleigh Neighbourhood Plan currently at Regulation 14 stage. The site is outside any settlement development boundary. The nearest settlement to the site is Ardleigh and this sits at the lowest available tier of the development plan's Settlement Hierarchy (Policy SPL 1), being defined as a "Smaller Rural Settlement".

Supporting paragraph 3.2.1.4.2 of the Local Plan (Part 2) establishes the approach to development in Smaller Rural Settlements and the justification behind this. It reads as follows:

"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".

**Part 2:** Furthermore the Council does not consider that this proposal complies with the Tendring Local Plan nor the emerging Ardleigh Neighbourhood Plan. TDC's Local Plan Policy PP13 The Rural Economy: to support growth in the rural economy, states that the Council may grant planning permission for the following types of development in the countryside outside of defined Settlement Development Boundaries, subject to detailed consideration, including against other policy requirements in this Local Plan: a Where appropriate to the historic environment, conversion or re-use of rural buildings in the countryside to employment, leisure or tourism use; b business and domestic equine related activities; c agricultural and key workers' dwellings; and d buildings that are essential to support agricultural, aquacultural, horticultural and forestry, and farm diversification schemes.

Our emerging Ardleigh Neighbourhood Plan Section 1: General Approach to Development and Policy HP - Housing supports this approach. As far as we can tell there is that there is no suggestion that the dwelling would be for the benefit of agricultural or key workers or otherwise complies with the above Policy. There has already been development on the site (prior to the adoption of the Local Plan- with three new dwellings). We consider the site to already be overdeveloped given its very rural location and any further development should be resisted.

## 2. Consultation Responses

ECC Highways Dept

The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material. The proposal will utilise and share an established private vehicular access that joins Morrow Lane, no new or altered means of access is proposed as part of this application, The proposal provides adequate parking and turning within the site, considering these factors:

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

1. There should be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

**Reason:** To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety in accordance with policy DM1.

2. Prior to the occupation of the dwelling the internal layout and parking provision shall be provided in principle with drawing number:

• **Drawing: 544-01-01 A Site plan and block plan**

**Reason:** To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1.

3. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

**Reason:** To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

4. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

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

The above conditions are to ensure that the proposal conforms to the

relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

**Informative:**

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

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Tree & Landscape Officer  
10.08.2022

The application site is set to grass. No trees or other vegetation will be adversely affected by the development proposal.

The boundary with Morrow Lane is demarcated by an established hedgerow containing mature Oak trees that currently provides a good level of screening. This landscape feature is not threatened by the development proposal.

Whilst there is ample opportunity for new soft landscaping there does not appear to be a functional need for new planting or any public benefit to be gained from soft landscaping other than the general enhancement of the proposed dwelling and garden

UU Open Spaces  
01.09.2022

Response from Public Realm Open Space & Play

Current Position

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

Recommendation

No contribution is being requested on this occasion, should there be further development on this site a contribution may be required.

### 3. Planning History

13/00332/FUL

Change of use of redundant buildings for B1 and B8 commercial purposes.

Approved

29.05.2013

19/01254/COUNOT      Change of use of former      Determinati      11.11.2019  
agricultural barn, cold store and      on  
boiler house into 3no. dwellings.

#### 4. **Relevant Policies / Government Guidance**

##### **National:**

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Statutory guidance -Technical housing standards: nationally described space standard Published 27 March 2015

##### **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

PP6    Employment Sites

PPL3    The Rural Landscape

PPL5    Water Conservation, Drainage and Sewerage

CP1    Sustainable Transport and Accessibility

DI1    Infrastructure Delivery and Impact Mitigation

##### *Supplementary Planning Documents*

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)

Essex Design Guide

##### *Local Planning Guidance*

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 application site comprises a roughly rectangular shaped plot amidst a much larger irregular-shaped parcel of land owned by the applicant. The wider site contains two dwellings which are the completed conversions resulting from application 19/01254/COUNOT; Building A is at the right hand side of the entrance and was historically the agricultural store and Building C was at the far left of the entrance and was historically the boiler house/cold store.

Building B (the subject of this application) is the boiler house/cold store and has not been converted.

### Relevant History

On 11<sup>th</sup> November 2019 the Planning Authority confirmed that the Prior Approval for (a) transport and highways impacts of the development (b) noise impacts of the development (c) contamination risks on the site (d) flooding risks on the site (e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 and (f) the design or external appearance of the buildings was not required to convert the three buildings to residential dwellinghouses.

Condition 1 of the permission requires that "The Development must be completed within a period of 3 years starting with the prior approval date." The 3-year period ends on 11<sup>th</sup> November 2022.

Notwithstanding the submission of draft Section 106 Agreement which states "The Owner hereby covenants with the Council as follows: 1. That from the date of issue of the Planning Permission the Owner: (a) shall not take advantage of or exercise the Rights at any time; and (b) shall not use the Cold Store for any residential use or for any use associated with (or ancillary to) a residential use PROVIDED THAT for the avoidance of any doubt this clause 1 of this Schedule 1 is subject to clause 5.1 of this Deed." This does not counteract the requirement for Condition 1 to be complied with.

### Description

The application proposes relinquishing the prior approval for Building B in lieu of a detached dwellinghouse located some 31m to the south-east. Although no floor plans were submitted for the prior approval, it is estimated that the main building has a footprint in the region of 42sqm (two storeys) plus small lean to at around 4sqm equals a floorspace of around 88sqm. The building has a simple, square footprint with a 7m ridge height and eaves around 4.3m; the ridge runs in a north-east/south-westerly direction and the building is finished externally in red brick with a corrugated sheet roof.

The proposed building is L-shaped at ground floor with a small lean-to addition to the south east. The ground floor is approximately 90sqm, 12.8m at its widest and 9.2m at its deepest. The first floor is rectangular and has a footprint of 56.7sqm, it is 5.3m deep by 10.5m wide. The ridge is around 6.4m and would run in a north-west/south-easterly direction; its eaves are approximately

4.9m. Externally the building would be constructed in a Mardale Antique Wienerberger Facing Brick and would have a natural slate roof.

A detached two-bay car port is proposed, the rear of the building would be against the boundary with Morrow Lane, its face-to-face elevation would be separated from the new dwelling by around 11.5m. Externally the footprint is roughly 6m x 6m, it has a dual-pitched roof with a ridge around 4.2m and eaves in the region of 2.4m. The building is enclosed on three sides with Hardie plank boarding and having a natural slate roof.

### 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; and,
- 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 Ardleigh 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 one dwelling and site is located outside of the Settlement Development Boundary for Ardleigh.

In addition, the proposal is for one dwelling and the location of the proposed development is some 2,529m from the edge of Ardleigh's settlement development boundary and for this reason the location cannot be considered to amount to within or on the edge of villages.

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 nor is the proposal for self-build. As a result, the proposal would not meet the requirements of Policy SPL2 to justify an exception in this case.

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. Material considerations are matters or issues which may be relevant to the decision. Principles of Case Law held through the Courts hold significant weight as a material consideration.

*Fallback Position:-*

This current application seeks to relinquish the permitted development rights to convert the agricultural building Barn B subject of 19/01254/COUNOT; a draft Section 106 agreement accompanies the application to this effect. This scheme is referred to as the 'fall back' position.

In this particular regard the Mansell v Tonbridge and Malling Borough Council 2017 judgement requires the Council to consider the 'fallback position' i.e. what development alternatives we are bound to consider relevant. It is for the decision-maker to make a comparison between the development already approved versus the development proposed. How to interpret the weight attributed to the fallback position is established in caselaw in the R v Secretary of State for the Environment and Havering BC (1998) EnvLR189 judgement.

*Attributing Weight to the Fallback Position*



The three tests which are necessary to apply are as follows:-

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

In considering whether there is a lawful ability to undertake the use/development, the proposal is considered to fail the first test. Condition 1 of 19/01254/COUNOT requires that the development is completed within three years from the date of the approval. The application the subject of this report was received by the LPA on 30 May 2022 which is only 6 months before the expiry of the 3 year deadline as outlined above. The 3 year date expired on 11<sup>th</sup> November 2022 and for this reason it is considered that no lawful ability to complete the conversion of all three units before this date.

There is no likelihood or real prospect of the conversion of the third building being completed within the timeframe the permission requires.

Whilst the answer to the second question is that there is no likelihood, for completeness and of relevance to other policies, a comparison between the two schemes is made accordingly. In this particular case the draft legal agreement simply sets out that Barn B would not be converted to residential; there is no agreement or suggestion that the building would be removed from the site, as such the application would result in a new building which cause a significant encroachment into what is undeveloped land in excess of 30m from the subject building. The proposed dwelling bears very little resemblance in terms of its shape and appearance to the uncomplicated form Barn B currently takes having a Mock Georgian appearance.

For these reasons, it is considered that the Fallback Position does not exist and there are no other material considerations that would exist to determine the application, other than in accordance with the development plan.

Policy SP3 of the Local Plan states that development will be accommodated within or adjoining settlements. As the site does not lie within or adjoining the defined settlement boundary of Ardleigh, it is considered to be within the countryside. In such circumstances, Policy SP3 of the LP states that development beyond main settlements will be supported for the diversification of the rural economy and conservation and enhancement of the natural environment. The proposal does not represent either of these.

The site would be in relative close proximity to Barn C which has already been converted to residential accommodation, but clearly forms part of the surrounding countryside, to which it makes a positive contribution. The wider site primarily contains single storey workshops (save for Barn B) and seeks the development of an undeveloped field, the corollary of which would result in the suburbanisation of the site and the erosion of the rural character and open visual qualities of the area.

The site is in an extremely rural location where residential development is typically sporadic and for these reasons the development would be in conflict with Policies SPL1 and SPL2 and SP3 of the Local Plan which seek, amongst other things, to direct developments to the most appropriate locations and to ensure that developments contribute to the quality of the local environment and protect or enhance local character.

### 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.

The dwelling has a Mock Georgian appearance and, being contained within a complex of very modest single-storey workshops with two converted agricultural buildings, does little to harmonise with the very rural setting of the locale. The siting of the dwelling would introduce a building of two-storey scale into the only part of the complex which has no built form sited on it. The proposal does not respect local landscape character which is typically of diminutive workshops, it would cause material harm to this undeveloped south part of the complex by reason of almost entirely masking views of the open land beyond. For these reasons the development is not visually attractive in its setting and is not sympathetic to local character resulting in conflict with the above mentioned policies.

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.

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 |
|--|-----------------|-------------------|---------|-----------------|-------------------|------------|
|  | 3               | 5                 | 2       | 93sqm           | 146sqm            | yes        |

The single storey element to the south-east elevation would be a little over 12m from the converted Building C with the two-storey building a little over 16m away. Although one first floor side facing window is proposed, this would serve an en-suite and is likely to be fitted with obscure glazing.

As residential development is so sporadic in the locale there are no ‘typical’ garden sizes in the area; notwithstanding this the proposed amenity space would be similar to those associated with the Building A and C conversions.

Overall the proposal is considered to secure a good standard of amenity for future occupants of the proposed dwelling and protects the amenity of existing residents with regard to loss of light, overbearing and overlooking.

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 proposal will utilise and share an established private vehicular access that joins Morrow Lane, no new or altered means of access is proposed as part of this application; the proposal provides adequate parking and turning within the site, considering these factors the impact of the proposal is acceptable to the Highway Authority subject to mitigation and conditions.

### 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 Ardleigh Valley System. These 'hidden' valleys have an intimate, wooded character which contrasts with the adjacent expansive large scale arable landscapes of the plateau above. Built development is typically located at the top of the valley sides, on the edge of the adjacent plateau. The Ardleigh Valley System has escaped the pressures of agricultural intensification and built development associated with the more easily accessible, flatter areas of the district. The landscape shows good survival of characteristic features such as the steep wooded valleys sides, historic lanes and Spring Valley Mill. It shows strong landscape character.

The Ardleigh valleys are sensitive to change as a result of their rural, sometimes remote, character. However, their 'hidden' position and high tree cover provides some shelter and reduces visual sensitivity. The landscape is particularly sensitive to any change that would affect its ancient woodlands, streamside vegetation and sense of 'remoteness'.

The landscape strategy should be to conserve the remote, rural character of the Ardleigh Valleys with their steep wooded sides, leafy lanes, ancient woodland and low density rural settlement.

As the dwelling would be two-storey there would be glimpses of it from Morrow Lane through the patchy hedgerow to the north of the site. Along with the visual impacts of the proposal it is also necessary to consider the effects of the residential use of the site. This would include matters such as vehicle movements and parking associated with the development, fencing, domestic cultivation, and items such as garden furniture, external lighting and washing lines for the new dwelling, which would also have a suburbanising effect on the character of the area. The proposal amounts to an unplanned advance into the open and undeveloped countryside on the periphery of the complex, causing harm to the intrinsic character and beauty of the Countryside, contrary to Section 1 Policy SP7 and Section 2 Policy PPL3(c) of the adopted Local Plan.

### 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. 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. Paragraph: 020 of the National Planning Policy Guidance states that where a connection to a public sewage treatment plant is not feasible a package sewage treatment plant can be considered. The package sewage treatment plant must comply with the Small sewage discharges in England: general binding rules

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

Policy PPL5 (Water Conservation, Drainage and Sewerage) of the Adopted Local Plan states 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. Details of the proposed treatment plant have subsequently been received which shows that the system to be installed is a Premier Tech Aqua sewage treatment plant.

Having regard to non-mains drainage, the site is not close to any dwelling and in an area where it is unlikely that mains drainage exists for any of the properties, the site is not close to any designated site of importance to biodiversity, is not located within a Drinking Water Safeguard Zone or a Source Protection Zone, and the site is sufficiently large enough to accommodate a soakaway. Furthermore, there is no evidence ground conditions would preclude such a solution. Access for maintenance would be achievable from the existing car park. Taking all these factors into account, the use of the package treatment plant is considered to be the only feasible option available.

#### 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 5,715m from Stour And Orwell Estuaries SPA and Ramsar. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Stour And Orwell Estuaries; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

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

## 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.

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

No letters have been received in response to the publicity of this application.

The Parish Council object to the development as the site is outside any settlement development boundary – this is addressed in detail above and forms one of the three reasons for refusal.

## **6. Planning Balance and Recommendation**

The scheme will result in construction jobs, addition spend of one household in local economy and one additional market dwelling, all very limited weight and weight that can be afforded on the additional market dwelling that would be added to housing stock particularly tempered on last one because of 5yHls. Weighing against the proposal is the unsuitable nature of the site for housing for the reasons given and the various elements of landscape and design harm as outlined, and these elements result in clear policy conflict and therefore an unsustainable form of development.

Refusal - Full

## **7. Reasons for Refusal**

- 1 Section 1 Policy SP3 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 any defined settlement boundary in the 2013-2033 Local Plan. The proposed development would therefore extend beyond the area planned to provide growth.

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. The availability of a building subject to an approved Prior Approval for Class Q is acknowledged, however no weight is given to the Class Q as a Fallback Position as the time limit in Condition 1 of 19/01254/COUNOT expired on 11th November 2022. Further, the proposed dwelling would be sited a significant distance from the Class Q building and visually the proposed dwelling bears no resemblance to the Class

Q building in regards to size, scale and external appearance. For these reasons there are no material considerations which exist to determine the proposal otherwise than in accordance with the development plan.

- 2 The proposed dwelling, by virtue of its size, scale, location and external appearance would result in a prominent and incongruous building that would fail to respect the local landscape character, resulting in a development that appears out of place in this rural countryside location. The proposed development is therefore detrimental to the rural character and appearance of the area. The development is therefore contrary to the objectives of the National Planning Policy Framework (2021) and Policy (Section 1) SP7 and Policies (Section 2) SPL3, LP4 and PPL3 of the Tendring District Local Plan.
- 3 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 Section 1 Policy SP2 and Section 15 of the National Planning Policy Framework.

## 8. **Informatives**

### Application Refused Following Discussion - Where there is no Way Forward

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.

### Plans and Supporting Documents

The Local Planning Authority has resolved to refuse the application for the reason(s) set out above. For clarity, the refusal is based upon the consideration of the plans and supporting documents accompanying the application as follows, (including any updated or amended documents):

- 544-01-02 A Dwelling - Proposed Floor Plans and Roof Plans
- 544-01-03 A Dwelling - Proposed Elevations
- 544-01-04 A Carport - Proposed Floor Plan and Elevations.
- 544-01-01, REV B Site And Location Plans-A
- Sewage Treatment Plant Details

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|---|--|----|
| <b>Are there any letters to be sent to applicant / agent with the decision?</b> |  | NO |
| <b>Are there any third parties to be informed of the decision?</b>              |  | NO |