

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case officer recommendation:	AL	10/03/2023
Planning Manager / Team Leader authorisation:	JJ	10/03/2023
Planning Technician final checks and despatch:	ER	10/03/2023

Application: 22/01845/FUL **Town / Parish:** Thorrington Parish Council
Applicant: Mr Baker
Address: Rookwood Stables Brightlingsea Road Thorrington
Development Proposed new dwelling following planning approval under 20/00200/OUT.

1. Town / Parish Council

Thorrington Parish Council No comments received.

2. Consultation Responses

ECC Highways Dept
03.01.2023

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 access to the site is via an existing vehicular access to the site and private drive which serves a number of other properties and no new or altered means of access is proposed as part of this application. It is noted that the existing private drive has served an active agricultural use (as a nursery) and has been utilised by large farm machinery. The vegetation in the vicinity of the access appears to be managed and cut back to maintain visibility. The site will be provided with adequate parking and turning for the proposed dwelling and there are no material transport or highway impacts when compared with the current agricultural and other uses of the site, the level of activity will be on a par or possibly reduced, 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. Prior to occupation of the dwelling a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

2. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been hard surfaced and sealed. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

3. As per drawing no. P01, a minimum of two parking spaces shall be provided each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

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

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

5. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

6. 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

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.

4: Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

Essex County Council
Ecology
05.01.2023
INITIAL COMMENTS

Thank you for consulting Place Services on the above application.

Holding objection due to insufficient ecological information on European Protected Species (bats).

Summary

We have reviewed the documents supplied by the applicant, relating to the likely impacts of development on designated sites, protected & Priority habitats and species and identification of proportionate mitigation.

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

However, we are not satisfied that there is sufficient ecological information available for determination of this application and recommend that details of survey results. This is because no ecological assessment has been submitted to support this application.

We note from the Amended site plan - Drawing No. P04A (Wright Ruffell Cameron, October 2022) and Block Plan - Drawing No. P02 (Wright Ruffell Cameron, October 2022), that a building appears to be demolished as part of the proposals which may impact upon roosting bats (European Protected Species), as suitable bat roosting features may be present. Therefore, the LPA does not have certainty of the likely impacts to protected species.

Therefore, it is considered reasonable that a Preliminary Ecological Appraisal or, as a minimum, a Preliminary Roost Assessment of the building be submitted to identify any features which may be used by roosting bats. This should provide an adequate assessment of the proposal to inform the need for any further surveys and, if necessary, mitigation & compensation for impacts from this application. Any surveys must be undertaken by suitably qualified ecologists, at the

appropriate time of year, using standard methodologies, and professional judgement should be used to come to reasoned conclusions as to the likelihood of species being present and affected by the proposed development.

To fully assess the impacts of the proposal the LPA need ecological information for the site, particularly for bats, a European Protected Species. These surveys are required prior to determination because Government Standing Advice indicates that you should "Survey for bats if the area includes buildings or other structures that bats tend to use or there are trees with features that bats tend to use nearby".

The results of these surveys are required prior to determination because paragraph 99 of the ODPM Circular 06/2005 highlights that: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."

This information is therefore required to provide the LPA with certainty of impacts on legally protected species and be able to secure appropriate mitigation either by a mitigation licence from Natural England or a condition of any consent. This will enable the LPA to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 and prevent wildlife crime under s17 Crime and Disorder Act 1998.

Additionally, no biodiversity enhancement measures are identified in the documents provided. We recommend that, to secure net gains for biodiversity, as outlined under Paragraph 174d and 180d of the National Planning Policy Framework 2021, reasonable biodiversity enhancement measures will need to be provided.

Consequently, this further information is required for the LPA to have certainty of likely impacts on protected and Priority species and habitats and enable it to demonstrate compliance with its legal statutory duties, including its biodiversity duty under s40 NERC Act 2006.

We look forward to working with the LPA and the applicant to receive the additional information required to support a lawful decision and overcome our holding objection.

Essex County Council
Ecology
09.03.2023
LATEST COMMENTS

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

No objection subject to securing:

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

Summary

We have reviewed the Preliminary Roost Assessment (Arbtech, February 2023) relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures.

The site falls within the evidenced recreational Zone of Influence (ZOI) of Colne Estuary Ramsar and SPA. Therefore, given the residential element of this development is relevant to the Essex Coast RAMS,

we note that the LPA has prepared a project level HRA Appropriate Assessment to secure a per dwelling tariff by a legal agreement for delivery of visitor management measures at the designated sites. This will mitigate for predicted recreational impacts in combination with other plans and projects and avoid Adverse Effect on Integrity of the designated Habitat sites

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

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

The mitigation measures identified in the Preliminary Roost Assessment (Arbtech, February 2023) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly bats and nesting birds

We also support the proposed reasonable biodiversity enhancements of two bat boxes, two bird boxes and native planting, which have been recommended by the Preliminary Roost Assessment (Arbtech, February 2023) to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

In addition, the Preliminary Roost Assessment (Arbtech, February 2023) highlights that it is likely bats could be foraging/commuting within and around the site. Therefore, if any external lighting is to be proposed, it is advised that a sensitive lighting scheme is developed to minimise any impacts. This should summarise the following measures will be implemented:

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

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013.

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

Recommended conditions

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Roost Assessment (Arbtech, February 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."

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

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

"A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

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

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

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

And if any external lighting is proposed;

3. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

"A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting plans, drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority."

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

3. Planning History

05/01338/OUT	One residential property.	Refused	25.10.2005
10/00188/FUL	20 Metre x 35 Metre sand menage with rubber topping for private use.	Approved	10.06.2010
16/00065/COUNO T	Conversion of existing structure into a single dwelling.	Withdrawn	02.03.2016
20/00200/OUT	Conversion of existing stables into a three bedroom dwelling with all matters reserved.	Approved	22.05.2020

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 Section 1

- 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

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP8 Backland Residential Development
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL10 Renewable Energy Generation
- 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

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 (including Site Description and Proposal)

Site Description

The application relates to Rookwood Stables, Brightlingsea Road, Thorrington accessed via a private driveway to the rear of linear housing fronting Brightlingsea Road. The building sits alongside 3 other detached properties in large plots, Conifer House to the north-west, Windyridge (and The Bungalow) immediately to the west and Churchview House to the south.

The application site itself comprises an area of land approximately 0.2 hectares in size comprising of a range of single storey stable buildings, associated accommodation and parking. The paddock and manege areas are located to the east of the buildings. The site is enclosed by mature conifers along the majority of its western and eastern boundaries with close boarded fencing to its side boundaries.

The site lies outside of the settlement development boundary for the area as defined within the adopted Tendring District Local Plan 2013-2033 and Beyond.

Description of Proposal

The application seeks full planning permission for the erection of a detached, single storey, 3 bedroomed dwelling with associated parking, accessed via the existing private driveway.

The proposed dwelling includes solar panels, an air source heat pump and two EV Charging points.

The dwelling will have a cream rendered finish to all main elevations, a small section of weatherboarding to the forward gable projection and a slate tiled roof.

Assessment

The main planning considerations are:

1. Background and Principle of Development;
2. Layout, Scale, and Impact;
3. Trees and Landscaping;
4. Protected Species and Biodiversity;
5. Neighbouring Amenity;
6. Highway and Parking;
7. Environmental Protection;
8. Renewable Energy Generation and Energy Efficiency Measures;
9. Financial Contribution - Recreational Disturbance;
10. Financial Contribution - Open space and Play Space; and,
11. Representations.

1. Background and Principle of Development

As set out above (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. 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. The site is not located within an area subject of any adopted Neighbourhood Plans.

Adopted Tendring District Local Plan 2013-2033 and Beyond Section 1 (TDLPS1) Policy SP1 states that when considering development proposals, Local Planning Authorities will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. They will always work pro-actively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Development that complies with the Plan will be approved without delay, unless material considerations indicate otherwise. TDLPS1 Policy SP3 describes the overarching spatial strategy for growth across North Essex up to 2033. It provides that existing settlements will be the principal focus for additional growth and that 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.

Policy SP3 in Section 1 of the Local Plan also provides that the Section 2 Local Plan for 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. It is TDLP Section 2 (TDLPS2) that subsequently gives effect to the overarching spatial strategy through Policy SPL1 which defines the settlement hierarchy in Tendring and Policy SPL2 that determines how sustainable development will be achieved; i.e., by explicitly defining settlement development boundaries around relevant settlements to make land available as necessary for development to meet the planned housing requirement.

Policy SPL2 thus states that to encourage sustainable patterns of growth and to carefully control urban sprawl, each settlement listed in Policy SPL1 is defined within a 'Settlement Development Boundary' as shown on the relevant Policies Map and Local Map. It goes on to state that 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.

The application site falls outside of the defined settlement boundary for the area and therefore does not benefit from the general presumption in favour of new development offered by Policy SPL2.

One of the material planning considerations that might sometimes require the Council to depart from the approach in Policy SPL2 and support development outside of the settlement development boundary is its ability (or otherwise) to demonstrate a five-year supply of deliverable housing. In the past and particularly before the adoption of the new Local Plan, a number of residential developments outside of settlement development boundaries were granted permission as a departure from policy to address a shortfall in the demonstrable housing supply.

This was the case with the preceding application on the site under application reference 20/00200/OUT for the conversion of the existing stables into a three-bedroom dwelling (with all matters reserved). Application 20/00200/OUT was approved at a time when the Council's supply of deliverable housing sites fell below 5 years. Therefore, in accordance with Paragraph 11 (d) of the NPPF, the tilted balance applied meaning that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole.

Application 20/00200/OUT was approved as there were no adverse impact that significantly or demonstrably outweighed the benefits, as summarised below:

- The development would contribute economically to the area by providing employment during the construction of the development and from future occupants utilising local services;
- The location of the site performed reasonably well under the social objective of sustainable development being equidistant from the defined settlements of Thorrington and Brightlingsea, both with an array of amenities; and,
- The development did not result in any environmental harm due to there being examples of dwellings sited in a similar backland position, the building to be converted and extended being single storey in height with a backdrop of existing larger dwellings, the mature vegetation around the perimeter screening the development, the proposal appearing physically and visually as part of the existing built-up area and therefore not resulting in any wider landscape harm; and,
- No harmful precedent would be set by approving the application as every case is considered on its own merits.

The application was approved on 22 May 2020 establishing the acceptability of residential development on this site. The development was approved subject to the standard conditions requiring the submission and approval of all reserved matters before the expiration of three years from the date of this permission. Application 20/00200/OUT therefore remains extant and a reserved matters application for the approved conversion could be submitted up until the 21 May 2023.

This existing planning permission which confirms the principle of development constitutes a "fallback position" thus being a key material planning consideration of significant weight in the consideration of this current application for an alternative scheme.

The proposal is for the erection of 1no. single storey dwelling in lieu of the originally approved conversion. The alternative scheme does not seek to increase the number of approved dwellings and the scale of the development is considered comparable. For these reasons and having regard to the above, the principle of residential development for 1 dwelling on this site is considered acceptable.

2. Layout, Scale, and Impact

The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 127 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.

Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new

dwellings that are designed to high standards and which, together with a well-considered site layout, create a unique sense of place. Furthermore, Policy LP8 sets out the criteria for acceptable backland residential development.

Whilst officers recognise that the proposed dwelling will result in an increase in footprint and height to the conversion scheme, this is not a significant increase and the context of the site has not changed since the consideration of application 20/00200/OUT. Therefore, as previously evidenced (and also referred to above) there are examples of dwellings sited in a backland position round the site and it could not be argued that a dwelling in this location would be out of character or harmful.

Again, as per the original conversion approval, the proposed dwelling is single storey in height, with a backdrop of existing larger dwellings, screened by existing properties fronting Brightlingsea Road and screened by mature vegetation around the perimeter of the site. The proposal would physically and visually appear as part of the existing built-up area and would not result in any wider landscape harm. The detailed design and materials finish of the proposed dwelling are considered acceptable in this mixed character area. The use of render, slate and weatherboarding consider the appearance of the existing buildings retaining elements of the existing character on site whilst including glazing features to create an individual and attractive design overall.

The application presents an acceptable alternative scheme to that originally approved of a comparable scale and layout. No harmful precedent would be set by approving this application.

3. Trees and Landscaping

Paragraph 131 of the NPPF sets out the importance of trees and the contribution they make to the character and quality of urban environments. It states that planning policies and decisions should ensure that opportunities are taken to incorporate trees in developments and that existing trees are retained wherever possible.

TDLPS2 Policy LP4 relates to housing layout and states; to ensure a positive contribution towards the District's 'sense of place', the design and layout of new residential developments will be expected to incorporate and maximise the use of green infrastructure, verges, trees and other vegetation.

The application site is set back some distance from the highway and is screened by existing developed land and associated vegetation. The western boundary is demarcated by an established conifer hedge that dominates the application site but does not make a positive contribution to the amenities of the locality.

The northern boundary is marked by a 1.8m tall close board fence. There is a young Sycamore (*Acer*) and a Cherry (*Prunus* species) on the land that are reasonable specimens but that do not merit formal legal protection. In addition, four young Oak trees have become established along the line of the fence. They are attractive features in their setting but again do not have such amenity value that they merit formal legal protection by means of a Tendring District Council Tree Preservation Order. Nevertheless, it would be desirable for them to be retained for their own sake and the application is accompanied by details of protective fencing to be used during construction to ensure this occurs.

There would be little public benefit to be gained by new soft landscaping associated with the proposed development of the land. The plans show the proposed hard surfacing. Therefore, a landscaping condition is not considered necessary in this instance.

4. Protected Species and Biodiversity

Paragraph 180 of the NPPF states that, when making planning decisions local planning authorities need to assess whether significant harm to biodiversity could result from the development. The NPPF goes on to state the hierarchy that should be applied to mitigate any harm to ecology that is identified. Paragraph 174 of the NPPF requires that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value whilst Paragraph 179 requires local planning authorities to safeguard components of local wildlife-rich habitats.

TDLPS2 Policy PPL4 states that proposals for new development should be supported by appropriate ecological assessments and, where relevant, provide appropriate mitigation and biodiversity enhancements to ensure a net gain.

Consultation has been undertaken with Essex County Council Place Services Ecology who have reviewed all supporting information. Following receipt of a holding objection from Place Services Ecology, the agent has provided the necessary additional reports and information.

A full review of the Preliminary Roost Assessment (Arbtech, February 2023) relating to the likely impacts of development on designated sites, protected and Priority species & habitats has been undertaken. The identified mitigation measures will be secured by a condition. Additionally, the proposed biodiversity enhancements of two bat boxes, two bird boxes and native planting to secure net gains for biodiversity are compliant with Paragraph 174d of the NPPF. Again, the biodiversity enhancement measures will be secured by condition. Furthermore, if any external lighting is to be proposed, it is advised that a sensitive lighting scheme is developed to minimise any impacts upon bats foraging/commuting within and around the site.

Sufficient ecological information is now available for determination of this application and the development is considered acceptable subject to necessary conditions and a legal agreement securing a proportionate financial contribution towards RAMS, biodiversity mitigation and enhancement measures and a sensitive lighting scheme.

The LPA have considered the recommended conditions and have, where relevant, made amendments to ensure they meet the NPPF and NPPG tests for planning conditions, thus ensuring these tests are complied with. Where relevant, informatives will also be added.

5. Neighbouring Amenity

Paragraph 130 (f) of the National Planning Policy Framework (2021) states that planning should always seek to secure a good standard of amenity for all existing and future occupants.

Section 1 Policy SP7 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 Part C seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. Furthermore, Policy LP4 seeks to ensure that new dwellings are served by a 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.

The proposed plans demonstrate that sufficient space is available on site to provide a development that will achieve an internal layout and separation distances to existing dwellings, ensuring that no harm to the amenities of existing residents or the future occupiers of the proposed dwelling will result. The dwelling will be served by a private amenity space that is considered to accord with the aims of Policy LP4.

In terms of noise from associated traffic movements, the site is already accessed by vehicles due to its existing use. The traffic movements associated with a single dwelling would not be materially different. Any additional noise and disturbance to existing and future neighbours from traffic movements would be minimal. In addition, the character and layout of the road means that traffic will be moving slowly on the approach to the junction and to the site further minimising any impact from engine noise.

For these reasons, the proposal is considered acceptable in terms of residential amenities.

6. Highway and Parking

Paragraph 110 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SPL3 Part B of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond 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.

The EPOA Parking Standards 2009 require that for dwellings with 2 or more bedrooms, a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages should have internal dimensions of 7 metres by 3 metres (if being replied upon as a parking space).

Essex County Council Highway Authority (ECCHW) has been consulted on the application (full comments can be seen above). The proposal is to be served by an existing private drive with no new or altered means of access proposed as part of this application. ECCHWs note that the existing private drive has previously served an active agricultural use thus being used by large farm machinery and the level of activity will be on a par, or possibly reduced as a result of this development. Furthermore, the site will be provided with adequate parking and turning for the proposed dwelling.

For these reasons, ECCHW raise no objection subject to conditions. The LPA have considered the recommended conditions and have, where relevant, made amendments to ensure they meet the NPPF and NPPG tests for planning conditions, thus ensuring these tests are complied with. Where relevant, informatives will also be added.

Having regard to the above, and in the absence of any objections from the Highway Authority, officers are satisfied that the proposed development will not result in any material impact on the existing road network in terms of highway capacity or highway safety.

7. Environmental Protection

- ***Foul Sewage Disposal***

Paragraph 174 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 185 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment. TDLP2 Policy PPL5 requires that all new development must make adequate provision for drainage and sewage disposal.

The submitted application form advises a Sewerage Treatment Plant will be utilised as a way of disposing of foul waste, specifically a Klargester BioFicient Domestic Sewage Treatment Plant. In order to protect the health of residents and nearby residential premises, the installation must fully comply with the Environment Agency's Binding Rules and any other relevant Government guidance and British standards, in respect of these systems.

The LPA have considered the recommended conditions and have, where relevant, made amendments to ensure they meet the NPPF and NPPG tests for planning conditions, thus ensuring these tests are complied with. Where relevant, informatives will also be added.

- ***Contaminated Land***

Paragraph 183 of the NPPF seeks to ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. Adequate site investigation information, prepared by a competent person, should be available to inform the development proposals and assessments. Paragraph 184 states that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

To ensure the land is suitable for the proposed end use, the Council's Environmental Protection Team are requesting a Contaminated Land Survey be performed due to the sites location less than 250m from registered, historic contaminated land, and due to the historic use of the immediate surrounding land.

- **Construction Management**

Conditions in relation to noise and construction management are also recommended.

The LPA have considered the recommended conditions and have, where relevant, made amendments to ensure they meet the NPPF and NPPG tests for planning conditions, thus ensuring these tests are complied with. Where relevant, informatives will also be added.

8. Renewable Energy Generation and Energy Efficiency Measures

The NPPF requires local planning authorities to adopt proactive strategies to mitigate climate change and promote sustainable development.

TDLPS1 Policy SP7 requires new development to include measures to promote environmental sustainability including addressing energy and water efficiency. Policy PPL10 requires proposals for new development to consider the potential for a range of renewable energy solutions.

This proposed development is supported by solar panels, an air source heat pump and electric vehicle charging points.

9. Financial Contribution - Recreational Disturbance

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

The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zoi). New housing development within the Zoi would be likely to increase the number of recreational visitors to these designated sites; and, in combination with other developments it is likely that the proposal would have significant effects on the designated sites. Mitigation measures must therefore be secured prior to occupation. A financial contribution of £137.71 has been secured by a completed unilateral undertaking. This will provide certainty that the development would not adversely affect the integrity of Habitats Sites in accordance with policies SP2 and PPL4 of the adopted Local Plan and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

10. Financial Contribution - Open space and Play Space

TDLP Section 2 Policy HP5 states that the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update. TDLP Section 2 Policy DI1 states that all new development should be supported by, and have good access to, all necessary infrastructure.

Consultation with the Public Realm Team has been undertaken and no contribution is being requested on this occasion.

11. Representations

No comments have been received from Thorrington Parish Council.

3 letters of objection have been received. The concerns raised can be summarised and addressed as follows (officer response in italics):

- Completely new application not linked to outline permission / not reserved matters.
- Should be assessed under all new policies - contrary to Policies SP3 and SP7.
- Contrary to backland Policy LP8.

- Should be determined in accordance with the development plan.
- Outside settlement boundary.
- Out of character.
- Set a harmful precedent.
- Increase in size from the existing building.

The principle and impact of the proposed development have been addressed in the main report above.

- 22/00171/FUL and 22/01499/COUNOT nearby decisions should be given full weight for refusal.

The merits and circumstances of these cases are not directly comparable to the considerations of this current application.

- Poor access and highway safety issues.
- Too many dwellings for this private access road.

Highway safety, access and parking have been addressed in the main report above.

- Both footprint and significantly the ridge height would break the new covenant.
- Covenants are not a planning matter.***

3 letters of support have been received, summarised as follows:

- The new building is hidden away and will not effect any of the neighbours.
- It will also improve the appearance of the site.
- The covenant does not impact upon this development.
- The Government supports sustainable development such as this.

12. Conclusion

For the reasons set out above, the development is considered to represent a sustainable form of development that accords with the aims of national and local plan policy. In the absence of any material harm resulting from the development, the application is recommended for approval subject to conditions.

6. Recommendation

Approval - Full

7. Conditions

1. COMPLIANCE: TIME LIMIT

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

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

2. COMPLIANCE: APPROVED PLANS AND DOCUMENTS

The development hereby permitted shall be carried out in accordance with the drawings/documents listed below (including materials details and block paving details) and/or such other drawings/documents as may be approved by the local planning authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the local planning authority as a non-material amendment following an application in that regard.

- P04A Amended Site Plan
- P01 Proposed Elevations and Layout
- P02 Block Plan

- P03 Construction Method Statement (subject to amendments within Condition 4)

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

3. COMPLIANCE: EV CHARGING

The EV charging points shown on approved drawing number P01 shall be provided prior to the occupation of the dwelling hereby approved and maintained in the approved form in working order thereafter.

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development and to provide facilities for drivers of Electric Vehicles and to support and encourage the use of low or no emission vehicles.

4. COMPLIANCE: CONSTRUCTION WORKS & VEHICLES

Notwithstanding the Construction Method Statement details shown on approved drawing number P03, no construction works or deliveries in connection with the development shall take place outside the hours of:

- 07:30 to 19:00 Monday to Friday
 - 08:00 to 13:00 Saturdays
- with the exception of any piling or other percussive works which shall not take place outside the hours of 08:00 hours to 17:00 hours Monday to Friday.

No working of any kind is permitted on Sundays or any Public/Bank Holidays.

REASON: In the interests of highway safety and residential amenities.

5. COMPLIANCE: TREE PROTECTION MEASURES

The tree protection measures Appendix No 1 - BS 5837:2012 Figure 2 Protective Barrier and Appendix No 2 - BS 5837:2012 Figure 3 Details of Protective Barrier where construction encroaches within BS5837:2012 Root Protection Area (RPA) shown on approved drawing number P01 shall be erected prior to any demolition, site clearance or construction works and retained throughout the construction phase of the development hereby approved.

REASON: To ensure the retention of existing trees on site, in the interests of visual amenity and the quality of the development.

6. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PD FOR ENCLOSURES

Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of the Town and Country Planning (General Permitted Development) Order 2015, Schedule 2, Part 2 Minor operations, Class A (or any Order revoking and re-enacting that Order with or without modification):- no fence, gate, wall or any other means of enclosure, shall be erected forward of the front elevation of the dwelling hereby approved, except pursuant to the grant of planning permission on an application made in that regard.

REASON: In the interests of the visual amenity and the quality of the development and to ensure the parking and turning areas remain unobstructed.

7. COMPLIANCE: IN ACCORDANCE WITH ECOLOGICAL APPRAISAL

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Roost Assessment dated 09.02.2023. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

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

8. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

Prior to the installation of any external lighting to serve the development hereby approved, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved details and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

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

9. FURTHER APPROVAL: BIODIVERSITY ENHANCEMENT STRATEGY

Prior to any works above slab level, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;
- c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
- d) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- e) persons responsible for implementing the enhancement measures;
- f) details of initial aftercare and long-term maintenance (where relevant).

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

REASON: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

10. COMPLIANCE: PARKING & TURNING PRIOR TO OCCUPATION

Prior to the occupation of the dwelling hereby approved, the associated parking and turning shall be provided in accordance with approved drawing numbers:

- P04A Amended Site Plan
- P01 Proposed Elevations and Layout
- P02 Block Plan

The approved parking and turning areas serving the dwelling hereby approved, shall be maintained in this approved form.

REASON: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.

11. FURTHER APPROVAL: CONTAMINATED LAND RISK ASSESSMENT

No development shall commence, other than that required to carry out additional necessary investigation which in this case includes demolition, site clearance, removal of underground tanks and old structures, until an investigation and risk assessment has been submitted to and approved in writing by the local planning authority.

The risk assessment shall assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include:

- a. a survey of extent, scale and nature of contamination.
- b. an assessment of the potential risks to:
 - Human health,
 - Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - Adjoining land,
 - Groundwaters and surface waters,
 - Ecological systems; and,
 - Archaeological sites and ancient monuments.
- c. an appraisal of remedial options, and proposal of the preferred option(s).

The development hereby permitted shall not commence until the mitigation and remedial measures set out in the approved report have been implemented.

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.

Note - The assessment required shall be conducted by competent persons and in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and other current guidance deemed authoritative for the purposes.

12. FURTHER APPROVAL: RESIDENTIAL TRAVEL PACK PRIOR TO OCCUPATION

Prior to first occupation of the dwelling hereby approved, a Residential Travel Information Pack (travel pack) shall be provided to its first occupiers. The travel pack shall be agreed, in writing, by the local planning authority prior to provision and shall include a minimum of six one day travel vouchers for use with a local transport operator.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

Note: Please contact the Travel Plan Team at ECC Highways via email to Travel.PlanTeam@essex.gov.uk to obtain a Residential Travel Information Pack template and the associated day travel vouchers required.

13. FURTHER APPROVAL: FENCES AND ENCLOSURES

No above ground works shall take place until a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the local planning authority. The approved boundary treatment shall be implemented before the dwelling

hereby permitted is occupied and retained in this approved form unless otherwise agreed in writing by the local planning authority.

REASON: In the interests of providing adequate privacy for occupiers of the development and in the interests of visual amenity and quality of the development on this edge of settlement location.

8. Informatives

Positive and Proactive Statement

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

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017. Please note that any subsequent variation / removal of condition applications (s73 applications) will require a new legal agreement to secure this obligation unless the development has commenced (subject to all necessary condition discharges) and the contribution has already been paid.

Highways Informatives

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

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.

4: Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

5: 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, 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.

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO