

DELEGATED DECISION OFFICER REPORT

| AUTHORISATION | INITIALS | DATE |
|--|-----------------|-------------|
| Case officer recommendation: | AL | 08/09/2023 |
| Planning Manager / Team Leader authorisation: | ML | 08/09/2023 |
| Planning Technician final checks and despatch: | ER | 08/09/2023 |

Application: 23/01004/FUL **Town / Parish:** Ardleigh Parish Council

Applicant: Mr David Marshall - Wambugu Ltd

Address: Land to The North of Mount View Fox Street Ardleigh

Development: Proposed 3 bed detached eco bungalow and detached garage.

1. Town / Parish Council

Ardleigh Parish Council

Our Parish Council strongly objects to this application on a site which is outside any settlement development boundary and a proposal which conflicts with the Tendring Local Plan and the emerging Ardleigh Neighbourhood Plan which is now subject to Examination.

The land around Mount View is, in our view, already seriously overdeveloped and has significant local planning history. There have been notable recent Planning Inspectorate decisions which have not supported further development at this location.

The most recent in June this year APP/P1560/W/22/3295162 where the Inspector made the following comments.

'Overall, I conclude that the appeal site is not a location to which new housing should be directed. To do so would undermine the development plan in this regard and there would be conflict with Section 1 LP Policy SP3 and Policies SPL1 and SPL2 of the Section 2 LP, the requirements of which are set out above.' Para 15 'would fail to reinforce local distinctiveness and integrate well within the wider landscape thus having a harmful effect on the character and appearance of the area. The development would conflict with Section 2 LP Policies PPL3 and SPL3. Among other things, these policies require new development to protect the rural landscape and make a positive contribution to the quality of the local environment and local character. So, there should, I feel, be no more allowed especially outside the SDB.' Para 24 and 'Whilst I have concluded that the appeal site is reasonably well located and connected to local services and facilities to avoid an undue reliance on the use of a private motor vehicle, I have concluded that there would be substantial harm that would arise from the conflicts I have identified with the development plan, with particular regard to the character and appearance of the area and the settlement strategy. There are no material considerations in this instance, either individually or collectively, which indicate determination of the appeal should be other than in accordance with the development plan. ' para 48

In our view the applicant has been very selective in the previous decisions which have been quoted - including one from 2016 which claims that the site is 'sustainable'.

Ardleigh Parish Council
comments continued

This is at odds with more recent decisions which support our view that it is not and does not recognise the progress of both the Tendring Local Plan and the Ardleigh Neighbourhood Plan in the meantime. We would urge that a swift and unequivocal refusal is issued, taking into account the findings of the above appeal.

2. Consultation Responses

ECC Highways Dept
24.08.2023

The information submitted with the application has been assessed by the Highway Authority and conclusions reached based on a desktop study in conjunction with a previous site visit in conjunction with an earlier application. The site is situated on the A137 Harwich Road that is subject to a 40-MPH speed limit. The proposal would utilise an established vehicular access onto the A137 Harwich Road that serves application no. 20/01142/FUL granted approval in 2020 for four detached bungalows plus the host dwelling. The proposal provides adequate parking and turning for the proposed bungalow, 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 the occupation of the dwelling the internal layout shall be provided in principle with drawing number:

o Drawing: P01 Amended proposed block plan elevations and floor plans (20/07/23)

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.

2. No unbound materials shall be used in the surface treatment of the proposed private drive throughout.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1.

3. The proposed dwelling 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.

4. 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 free of charge.

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.

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.

Environmental Protection
26.07.2023

With reference to the above application, please see below for comments from the EP Team:

Construction Method Statement: I can confirm we have reviewed the submitted CMS and have no adverse comments to make.

Contaminated Land: given the sites proximity to historical agricultural land the EP Team are requesting a Watching Brief be conditioned (on any subsequent approval) and adhered to throughout the demolition and construction phase. We request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

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

1. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
2. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
3. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and

olfactory observations of the ground, delineate the area over which contaminated materials are present.

4. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.

5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.

6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.

7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.

8. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.

9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.

10. A photographic record will be made of relevant observations.

11. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be: o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or o treatment of material on site to meet compliance targets so it can be re-used; or o removal from site to a suitably licensed landfill or permitted treatment facility.

12. A Verification Report will be produced for the work.

REASON: It is the responsibility of the developer to ensure the safe development of the site and to carry out any appropriate land contamination investigation and remediation works. The condition is to ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Should you have any queries concerning this, please do not hesitate to contact me.

Essex County Council
Ecology
22.08.2023

Thank you for consulting Place Services on the above application.

Holding objection due to insufficient ecological information - Out of date report

Summary

We have reviewed the information submitted by the applicant, relating to the likely impacts of development on designated sites, protected and Priority species & habitats, and identification of proportionate mitigation. We note that no ecological information has been submitted in support of this application. However, we note and have also reviewed a Preliminary Ecological Appraisal (Adonis Ecology Ltd., March 2022), which has been submitted in support of a previous application (21/02132/FUL) at the same site.

The site falls within the evidenced recreational Zone of Influence (ZOI) of Essex Coast RAMs. Therefore, given the residential element of this

development is relevant to the Essex Coast RAMS, the LPA will need to prepare 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 not satisfied that there is sufficient ecological information available for determination. This is because the Preliminary Ecological Appraisal (Adonis Ecology Ltd., March 2022), is out of date to support this application, in line with CIEEM Guidance¹ and paragraph 6.2.1 of British Standard (BS) BS42020 Biodiversity - Code of practice for planning and development 2013'. This is because the initial site walkover was undertaken on 16th February 2022.

As a result, we recommend that the applicant's ecologist provides an ecological addendum or an updated ecological report to support this application, which may include require an additional site visit and updated desk study information. The ecologist will be required to provide appropriate justification, on:

- The validity of the initial report;
- If any additional impacts will result from the new proposals;
- Which, if any, of the surveys need to be updated; and
- The appropriate scope, timing and methods for the update survey(s).

If additional impacts to protected species are identified as a result of the additional ecological assessment, then any necessary further surveys for protected species should also be provided prior to determination, unless an exceptional circumstance is demonstrated (as defined by BS42020). This is necessary as the Government Circular 06/2005 identifies that the presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. Therefore, it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed application, is established before planning permission is granted.

Therefore, this further information along with the Preliminary Ecological Appraisal (Adonis Ecology Ltd., March 2022), should be submitted prior to determination and is required to provide the LPA with certainty of impacts on protected species at determination and enable it to demonstrate compliance with its statutory duties, as well as its biodiversity duty under s.40 NERC Act 2006.

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

Tree & Landscape Officer No objections (see main body of report).
10.08.2023

3. Planning History

| | | | |
|--------------|---|---------|------------|
| 19/01148/OUT | Outline planning application with all matters reserved for the construction of 9 no. custom build/self build dwellings, access road and pavement. | Refused | 01.11.2019 |
|--------------|---|---------|------------|

| | | | |
|-----------------|---|------------------|-------------------|
| 19/01740/OUT | Outline planning application with all matters reserved for the construction of 9 no. custom build/self build dwellings, access road and pavement. | Refused | 13.02.2020 |
| 20/01058/FUL | Erection of 1no. self-build three bed detached bungalow, detached double garage and driveway. | Approved | 09.12.2020 |
| 21/02132/FUL | Proposed 4 No self build eco bungalows with associated access road. | | |
| 22/00009/NONDET | <i>Non-determination appeal</i> | <i>Dismissed</i> | <i>08.06.2023</i> |

4. **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), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) 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. **Neighbourhood Plans**

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

In summary, without prejudice, the weight that should be applied to Neighbourhood Plans can be understood as follows:

- Stage 1: Designated neighbourhood area (Limited Weight)
- Stage 2: Preparing a draft neighbourhood plan (Limited Weight)
- Stage 3: Pre-submission publicity and consultation (Limited Weight)
- Stage 4: Submission of a neighbourhood plan (Limited Weight)
- Stage 5: Independent Examination (Limited/Significant Weight)
- Stage 6: Referendum (Significant Weight)
- Stage 7: Adoption by LPA (Full Weight)

6. Ardleigh Neighbourhood Plan – Examination Stage

On the 14th of June Mrs Ann Skippers was appointed as the Examiner for the Ardleigh Neighbourhood Plan. The Examination for the Ardleigh Neighbourhood Plan formally opened on Wednesday 12th July 2023.

On the 18th of August, the Examiner sent the Council an Interim Note of Findings which detailed several questions and matters of clarification.

Therefore, the Ardleigh Neighbourhood Plan, and any relevant policies therein, can be understood as reaching 'Stage 5' in terms of the weight that can be attributed to it in the decision-making process.

7. Relevant Policies / Government Guidance

The national and local plan policies relevant to the determination of this application are:

National:

National Planning Policy Framework 2023
National Planning Policy Guidance

Local:

Tendring District Local Plan 2013-2033 and Beyond (Section 1, adopted on 26 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 on 25 January 2022)

SPL1 Managing Growth
SPL2 Settlement Development Boundaries
SPL3 Sustainable Design
LP1 Housing Supply
LP3 Housing Density and Standards
LP4 Housing Layout
LP5 Affordable and Council Housing
PPL1 Development and Flood Risk
PPL3 The Rural Landscape
PPL4 Biodiversity and Geodiversity
PPL5 Water Conservation, Drainage and Sewerage
PPL10 Renewable Energy Generation
CP1 Sustainable Transport and Accessibility

Ardleigh Neighbourhood Plan (limited weight)

GDP General Approach to Development
HP Housing
EP Natural, Built & Historic Environment
TP Transport & Parking

Supplementary Planning Guidance

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

8. Officer Appraisal (including Site Description and Proposal)

Site Description

The application relates to a parcel of land approximately 0.18 hectares in size (including the access connection to the public highway) located to the north-east of the property known as Mount View, located off Fox Street within the Parish of Ardleigh.

The site lies outside of the Ardleigh Settlement Development Boundary 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 1 no. 3 bed detached eco bungalow and detached garage.

The application is accompanied by the following plans and documents (accounting for any additional or amended information received):

- LS4339/1 Topographical Survey
- P02 Site Plan
- P01 Amended Proposed Block Plan, Elevations and Floor Plans
- Construction Method Statement
- Planning Statement
- Site photos provided by applicant via email dated 2.8.2023

Assessment

1. Background and Site History

Lawful Use of Land

The application site is described on the accompanying application form as 'garden land to the north of Mount View and adjacent High View'. However, 14/01081/LUEX refused a lawful use certificate for use of the land as residential curtilage and there are no other planning records to show that this portion of the land, subject of this current application, has been granted planning permission for a change of use to residential curtilage since the refused certificate. The site therefore forms part of the countryside in planning terms.

History of the Wider Site

The site forms the south-western section of a larger parcel of land that was previously the subject of an outline planning application for 9 dwellings (Planning Reference 19/01148/OUT). The application was refused on several grounds and subsequently dismissed at appeal (Appeal Reference - APP/P1560/W/19/3240479). In the appeal, the inspector concluded that; 'the location of the proposal would be significantly at odds with, and harmfully undermine, the spatial strategy for the location of housing and thus the consistency and relative certainty that should ordinarily flow from a genuinely plan-led approach to new development'; and 'the appeal scheme would significantly harm the character and appearance of the area'.

Site Specific History

The current site also forms the southern portion of a larger parcel of land that was more recently the subject of a full planning application for 4 no. self-build eco bungalows with associated access road

(planning Reference 21/02132/FUL). The application was subject to a Non-determination Appeal reference APP/P1560/W/22/3295162. The putative reasons for refusal comprised the following:

1. Unacceptable location having regard to the provisions of the development plan; and,
2. The harmful impact upon the character and appearance of the area.

Recent Non-determination Appeal

The Non-determination Appeal reference APP/P1560/W/22/3295162 was dismissed on 8 June 2023. The conclusions of the Inspector can be summarised as follows, falling under the 'main issues' identified within the decision:

- i. whether the appeal site is a suitable location for the proposed development having regard to the spatial strategy of the development plan and the appeal site's accessibility to services and facilities

Paragraph 10 – *'...the nearest 'strategic urban settlement', Colchester, is not safely accessible on foot. Moreover, notwithstanding the Tendring/Colchester District boundary is adjacent to the appeal site, the appellant states that Colchester is located at a distance of approximately 3km which would fall short of the requirements of the policy.'*

Paragraph 15 – *'...the appeal site is not a location to which new housing should be directed. To do so would undermine the development plan in this regard and there would be conflict with Section 1 LP Policy SP3 and Policies SPL1 and SPL2 of the Section 2 LP, the requirements of which are set out above.'*

- ii. the effect of the proposed development on the character and appearance of the area.

Paragraph 20 – *'The proposed dwellings would appear as a continuation of built form projecting a considerable distance beyond the built form of High View. As a consequence of the layout and extent of built form it would create the appearance of a suburban estate-like development that would be unsympathetic to local distinctiveness.'*

Paragraph 21 – *'It would encroach well into the countryside and be viewed as a harmful incursion into the rural landscape.'... 'This would be detrimental to the semi-rural character of the site and its surroundings, as well as the intrinsic countryside character of the area more widely.'*

Paragraph 24 – *'...I find that the appeal scheme would fail to reinforce local distinctiveness and integrate well within the wider landscape thus having a harmful effect on the character and appearance of the area. The development would conflict with Section 2 LP Policies PPL3 and SPL3. Among other things, these policies require new development to protect the rural landscape and make a positive contribution to the quality of the local environment and local character.'*

Where relevant the conclusions drawn by the Inspector form the basis of the LPA's assessment and conclusions below.

Other Nearby Consented Schemes

A number of consented dwellings adjacent to the site have been granted planning permission. However, these were at a time prior to the adoption of the local plan and before a comfortable 5 year housing supply could be demonstrated, as such the titled balance applied. None of these circumstances apply in this current case, nor do they provide justification for further housing development which is in conflict with the development plan.

2. Principle of Development

Spatial Strategy

Adopted Local Plan Section 1 Policy SP3 sets out the Council's spatial strategy for development of new housing within the district. Whilst it seeks to focus the majority of new development to existing settlements, development will be accommodated within or adjoining settlements subject to their scale, sustainability and existing role within their district and, where relevant, across the wider strategic area. The supporting text explains that growth will be planned to ensure existing settlements maintain their distinctive character and role and to avoid coalescence to conserve their setting.

Local Plan Section 1 Policy SPL1 identifies a hierarchy of settlements where new development will be directed to. In doing so, it seeks to prioritise locations with access to the strategic road network, public transport and those with the potential to offer the widest range of services. It goes on to state that all settlements which may experience growth have a development settlement boundary. In areas outside of development settlement boundaries, these are considered to be part of the countryside. Policy SPL2 reiterates that outside of settlement 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 within the development plan.

For the purposes of the settlement hierarchy, Ardleigh is classed as a 'smaller rural settlement' where development is limited to smaller development within defined settlement boundaries consistent with local community needs. By reason of the site's location within the hamlet of Fox Street and outside of the settlement development boundary (SDB) for Ardleigh, it is considered to be within the countryside where development is restricted to particular types of development consistent with other policies of the development plan to protect and enhance the character and openness of the countryside. Policy LP2 sets out that the Council will be supportive of, among other things, bungalows and self-build development.

To approve further housing in this location would be contrary to the plan led system. The site is not located in an area which is promoted as a centre or as a suitable location for further housing growth. Moreover, there are no policies within the development plan which afford the proposal support in principle. Harm to the Council's spatial strategy to direct housing development to more sustainable locations would arise.

The proposal is located in the countryside and is beyond the scales and patterns of growth promoted under the Local Plan. The proposal would therefore conflict with Section 1 Policy SP3 and Section 2 Policies SPL1 and SPL2.

Self-build and Custom-Built Homes

Policy LP7 sets out the criteria for self-build and custom-built homes. It states that 'all new dwellings on such developments must either be safely accessible on foot within 600 metres of the edge of the SDB of one of the District's 'strategic urban settlements' or 'smaller urban settlements', or 400 metres of the edge of the SDB of one of the District's 'rural service centres' or involve the redevelopment of vacant or redundant previously developed land (PDL) that is unviable for employment use. For the avoidance of doubt the location of the site fails to comply with the criteria set out in Policy LP7. The nearest 'strategic urban settlement', Colchester, is not safely accessible on foot. Moreover, notwithstanding the Tendring/Colchester District boundary is adjacent to the appeal site, the appellant states that Colchester is located at a distance of approximately 3km which would fall short of the requirements of the policy.

3. The Effect on The Character and Appearance of the Area

Paragraph 126 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials and should respect or

enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.

Moreover, Policy PPL3 states that 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.

The site comprises a parcel of predominantly open grassland forming part of a wider field parcel that is bounded by mature trees and hedgerow with open countryside to the rear. The topography of the site is elevated above and slopes downwards towards the A137 where an access point and a long driveway provide a route to the site with other dwellings positioned along its length.

Properties situated along the A137 are varied in terms of size, type and style and whilst there is no common build line, properties along this part of the road are broadly arranged in a ribbon pattern of development characterised by single depth dwellings with a frontage onto the highway. Gaps between built form comprise of fields and open countryside and together with plots being spacious and verdant, this gives the area an open and generally semi-rural character and appearance, which is enhanced by the presence of mature landscaping and established trees. As an undeveloped area of grassland, the site makes a positive contribution to the open and semi-rural character and appearance of the area.

The recent development of four dwellings (planning application reference 20/01142/FUL) along the access driveway is unlike the prevailing pattern of built form, however, their effect within the semi-rural environment is largely mitigated by reason of not projecting much further than the frontage properties along the A137 and by reason of having built form on all sides. Consequently, this gives the appearance of an infill development rather than an encroachment into the countryside.

The further dwelling under construction situated within the wider field parcel (planning application reference 20/01058/FUL), is positioned roughly to the side of High View, almost directly opposite Mount View and in close proximity to the shared boundary with the property known as Chantry's, again limiting its appearance of projecting into the countryside.

The previously refused scheme considered under application reference 21/02132/FUL comprised a site area of approximately 0.43 ha and sought permission for 4 dwellings. As set out above, paragraph 21 of the related appeal decision (Non-determination Appeal reference APP/P1560/W/22/3295162) states that, 'the appeal scheme would encroach well into the countryside and be viewed as a harmful incursion into the rural landscape' and, 'would be detrimental to the semi-rural character of the site and its surroundings, as well as the intrinsic countryside character of the area more widely.'

This current scheme proposes a single dwelling on a reduced plot size of approximately 0.18 ha. The reduced site area and reduction in number of dwellings lessens the impact on the countryside and semi-rural character. Nonetheless, the site is located within a clear break in built form within an expanse of openness extending into the open agricultural fields beyond. The development of part of this undeveloped land would remain an unacceptable incursion into the countryside being uncharacteristic of its surroundings. Any built development in the countryside, by definition, leads to a loss of landscape and an alteration of landscape character. The introduction of urban form including buildings, access, fencing and domestic paraphernalia would be seen as an urbanisation of the site, thus eroding the sense of openness and its semi-rural character.

Consequently, the proposal would fail to reinforce local distinctiveness and integrate well within the wider landscape thus having a harmful effect on the character and appearance of the area. The development would conflict with Policies PPL3 and SPL3.

4. Impact on Heritage Assets

Officers note that Essex County Council Place Services Heritage Team ("Heritage") were consulted on the previous application reference 21/02132/FUL, and raised no objections:

'... the proposed development is for low density new dwellings and due to its distance from the designated asset and the presence of woodlands and mature vegetations which are going to be retained, it is considered that it will not affect the setting of the farmhouse and its contribution to the significance of Fen Farmhouse. Therefore, there is no objection to this application.'

On this basis, consultation with Heritage on this current application was not deemed necessary.

5. 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 main body of the application site is set to grass with some exposed soil. There are no trees or other significant vegetation on the main body of the land. Close to the southernmost point of the land there is a small group of trees comprising hedging conifers (*Cupressocyparis 'Leylandii'*) and a small Oak (*Quercus robur*). The trees are not well-formed specimens and do not feature prominently in the public realm. Consequently, they do not merit protection by means of a Tree Preservation Order (TPO).

Taking into account the setback siting of the application site, there is little public benefit to be gained by new soft landscaping associated with the development of the land. However, in the event of an approval on the site, a condition would be imposed to secure the soft landscaping shown on the accompanying drawing, in the interests of the design quality and appearance of the development.

6. Biodiversity and Protected Species

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.

A Preliminary Ecological Appraisal (PEA) (Adonis Ecology Ltd., March 2022) accompanied the previous application reference 21/02132/FUL, but no ecology information has been provided for this current application. Application 21/02132/FUL was accompanied by a PEA dated 16th February 2022. Paragraph 5.1.2 of the PEA states:

Validity of PEA

- 5.1.2 If works do not commence for more than 18 months from the date of the survey undertaken for this report, the ecology of the site should be re-assessed as the ecological situation may have changed in the intervening time.

Therefore, the PEA expired on Wednesday 16th August 2023.

The officer queried the lack of PEA with the applicant and advised that the previously submitted PEA had now expired. The officer requested a copy of the PEA together with a letter from Adonis Ecology Ltd confirming that the site does not need to be re-assessed (or the submission of a new PEA as required). See email thread scanned to the planning application file dated 3 August 2023.

Consultation has been undertaken with Essex County Council Place Services Ecology Team ("Ecology"). Ecology note in their comments that no ecological information has been submitted in support of this current application. Place Services are aware of the previous application and that this application relates to part of the same site and therefore reviewed the previously submitted PEA.

As anticipated, (and communicated with the applicant) Ecology raise an objection to the application on the basis that the Preliminary Ecological Appraisal (Adonis Ecology Ltd., March 2022), is out of date. Consequently, insufficient ecological information is available for determination (to provide the LPA with certainty of impacts on protected species and enable it to demonstrate compliance with its statutory duties, as well as its biodiversity duty under s.40 NERC Act 2006).

The application is therefore contrary to the above-mentioned national and local plan policies. Officers also note that the application is contrary to the emerging Ardleigh Neighbourhood Plan Policy EP (only limited weight at the time of writing this report).

7. Residential Amenities

Policy SPL3, Part B criterion e), requires that buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents. Part B, criterion f), necessitates that provision is made for adequate private amenity space. Part C, criterion a), requires that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

Policy SP7 requires that all new development protects the amenity of existing and future residents with regard to noise, vibration, smell, loss of light, overbearing and overlooking. Policy LP3 requires that new residential development has regard to the need for residential development to comply with the government's latest 'Technical housing standards' – the nationally described space standard (NDSS). Amongst other things, Paragraph 119 of the NPPF states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment, and ensuring safe and healthy living conditions. Paragraph 130 f) includes that planning decisions should ensure developments create places that are safe, inclusive and accessible, and which promote health and well-being with a high standard of amenity for existing and future users.

Policy LP4 j. states that the design and layout of new residential 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.

The single storey scale of the dwelling minimises any neighbouring impact with its low eaves height and low ridge height. This together with the size of the plot and separation distance ensures that no harm to residential amenities in terms of light, sunlight, outlook, overlooking or privacy will result from the development.

The development provides private amenity space in excess of the expectations set out within adopted Local Plan Policy LP4.

The application is accompanied by a Construction Method Statement meeting the requirements of the Council's Environmental Protection Team thus minimising any noise or disturbance to neighbouring properties during construction.

8. Access, Parking and Highway Safety

Paragraph 110 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. TDLP Policy SPL3 Part B 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). One secure, covered parking space for bicycles is required per dwelling.

The development would be served by the existing private access and served by a detached double garage and large frontage providing suitable turning to ensure safe access and egress to the dwelling.

Essex County Council Highway Authority have been consulted on the application and raise no objection subject to conditions. In the event of an approval, these conditions would be added in accordance with the legislative and national guidance.

9. Sustainable Construction & Design

Policy PPL10 of the Local Plan states that 'all development proposals should demonstrate how renewable energy solutions, appropriate to the building(s) site, and location have been included in the scheme'. The use of electric vehicle charging points, green/brown roofs, PV panels and SuDS to aid the sustainability of the development should be an integral part of the design.

Paragraph 4.1 of the accompanying Planning Statement explains that the proposed bungalow would be served by an air-source heat pump. Whilst this goes some way in addressing the requirements of Policy PPL10, in the event of an approval on site, full details would be secured and managed via conditions within a 'Renewable Energy Generation Plan'.

10. Drainage and Foul Sewage Disposal

Paragraph 170 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 180 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

Adopted Policy PPL5 of Section 2 of the Adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Connection to the mains is the preferred option having regard to the drainage hierarchy and building regulations requirements. However, where this is not possible, an application will need to confirm how foul sewage disposal will be dealt with in compliance with the building regulations and Environment Agency drainage hierarchy.

In this instance, the dwelling would be served by a Package Treatment Plant details of which could be approved as part of the building regulations stages of the development or via condition, should an approval come forward for the site.

11. Financial Contributions – 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 residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation.

The site is not within or directly adjacent to one of the European designated sites, but lies within the Zones of Influence of the Essex Estuaries SAC, and the Stour and Orwell Estuaries, Dengie, Blackwater Estuary, and Colne Estuary SPA and Ramsar sites. The site is approximately 7.1km from both the Stour and Orwell Estuaries and the Colne Estuary SPA and Ramsar sites. In accordance with Natural England's advice there is no requirement to consult them due to the specified mitigation secured by Unilateral Undertaking.

The applicant has not provided a completed Unilateral Undertaking to secure the required financial contribution in accordance with the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) and the application is therefore contrary to Local Plan Policies SP2 and PPL4 and Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

12. Environmental Protection

Consultation has been undertaken with the Council's Environmental Protection Team who are satisfied with the accompanying Construction Method Statement and raise no objection to the development subject to conditions (securing the compliance with the CMS and watching brief in relation to contamination).

In the event of an approval on the site, the environmental protection matters can be satisfactorily controlled by conditions.

13. Representations

Ardleigh Parish Council object to the applications for the reasons set out above. The objections raised have been addressed under the relevant sections of the officer assessment.

Officers acknowledge the committee referral request received from the Ward Councillor for Ardleigh and Little Bromley due to the development being contrary to the development plan and the negative impact. This referral confirms that, if the application is recommended for refusal by officers there is no need for the application to be referred to Planning Committee.

No individual letters of representation have been received.

14. Overall Planning Balance and Recommendation

The proposal is not in accordance with the Local Plan's spatial approval to housing delivery.

Other similar applications nearby have been approved when the Local Authority did not have a 5-year housing supply. Because they were for different developments on different sites and the facts and circumstance of them were very different, little weight should be given to other decisions.

The proposal is therefore contrary to the Council's plan-led spatial strategy to direct development to the main urban areas and manage growth. In terms of its location, the proposal is therefore contrary to Policy SP3, SPL1 and SPL2, and is unacceptable in principle. Substantial weight is given to this harm and the resultant development plan conflict.

Substantial weight is given to the identified harm to the character and appearance of the area including the erosion of the form and countryside setting of Fox Street, contrary to Policies PPL3 and SPL3 of the Tendring District Local Plan 2013-2033 and Beyond (Section 2).

There are no concerns in relation to highway safety, heritage impacts or residential amenities. These are however neutral factors in the planning balance. The eco-credentials of the proposed properties, whilst supported, also must be considered as neutral factors when weighing in the planning balance.

In its favour, the development would support a prosperous rural economy as there would be some economic benefits during construction and from the subsequent spend of future occupants in the local economy. However, these benefits would be limited by the small scale of the development, and therefore attract only limited weight.

The cumulative limited weight given to the economic and eco-benefits do not clearly outweigh the significant weight given to the clear departure from the development plan, the housing settlement strategy outlined therein and the significant harm to the character and appearance of the locality.

Furthermore, the application fails to provide sufficient ecological information contrary to Policy PPL4 and fails to provide a completed Unilateral Undertaking to secure the planning obligation in

accordance with the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS).

For these reasons, the application is recommended for refusal.

9. Recommendation

Full - Refusal

10. Reasons for Refusal

1. PRINCIPLE OF DEVELOPMENT

Adopted Local Plan Section 1 Policy SP3 sets out the Council's spatial strategy for development of new housing within the district. Whilst it seeks to focus the majority of new development to existing settlements, development will be accommodated within or adjoining settlements subject to their scale, sustainability and existing role within their district and, where relevant, across the wider strategic area. The supporting text explains that growth will be planned to ensure existing settlements maintain their distinctive character and role and to avoid coalescence to conserve their setting.

Local Plan Section 1 Policy SPL1 identifies a hierarchy of settlements where new development will be directed to. In areas outside of development settlement boundaries, these are considered to be part of the countryside. Policy SPL2 reiterates that outside of settlement 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 within the development plan.

For the purposes of the settlement hierarchy, Ardleigh is classed as a 'smaller rural settlement' where development is limited to smaller development within defined settlement boundaries consistent with local community needs. By reason of the site's location within the hamlet of Fox Street and outside of the settlement development boundary (SDB) for Ardleigh.

The site is not located in an area which is promoted as a centre or as a suitable location for further housing growth. Moreover, there are no policies within the development plan which afford the proposal support in principle. Harm to the Council's spatial strategy to direct housing development to more sustainable locations would arise.

The proposal is located in the countryside and is beyond the scales and patterns of growth promoted under the Local Plan. The proposal would therefore conflict with Section 1 Policy SP3 and Section 2 Policies SPL1 and SPL2.

2. HARM TO THE CHARACTER OF THE AREA

Paragraph 126 of the National Planning Policy (NPPF) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. Moreover, Policy PPL3 states that 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.

The site is located within a clear break in built form within an expanse of openness extending into the open agricultural fields beyond. The development of part of this undeveloped land would represent an unacceptable incursion into the countryside being uncharacteristic of its

surroundings. Any built development in the countryside, by definition, leads to a loss of landscape and an alteration of landscape character. The introduction of urban form including buildings, access, fencing and domestic paraphernalia would be seen as an urbanisation of the site, thus eroding the sense of openness and its semi-rural character.

Consequently, the proposal would fail to reinforce local distinctiveness and integrate well within the wider landscape thus having a harmful effect on the character and appearance of the area. The development would conflict with Policies PPL3 and SPL3.

3. FAILURE TO DEMONSTRATE ECOLOGY IMPACTS

Adopted Tendring District Local Plan 2013-2033 and Beyond Section 2 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.

Insufficient ecological information has been provided and the application is contrary to the Local Plan Policy PPL4. The local planning authority are unable to assess, with certainty, the impacts on protected species and are unable to demonstrate compliance with its statutory duties, as well as its biodiversity duty under s.40 NERC Act 2006.

4. FAILURE TO SECURE RAMS CONTRIBUTION

The applicant has not provided a completed Unilateral Undertaking to secure the required financial contribution in accordance with the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) and the application is therefore contrary to adopted Tendring District Local Plan 2013-2033 and Beyond Section 1 Policy SP2, Section 2 Policy PPL4 and Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

11. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

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, (accounting for any updated or amended documents):

- LS4339/1 Topographical Survey
- P02 Site Plan
- P01 Amended Proposed Block Plan, Elevations and Floor Plans
- Construction Method Statement

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| 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 |