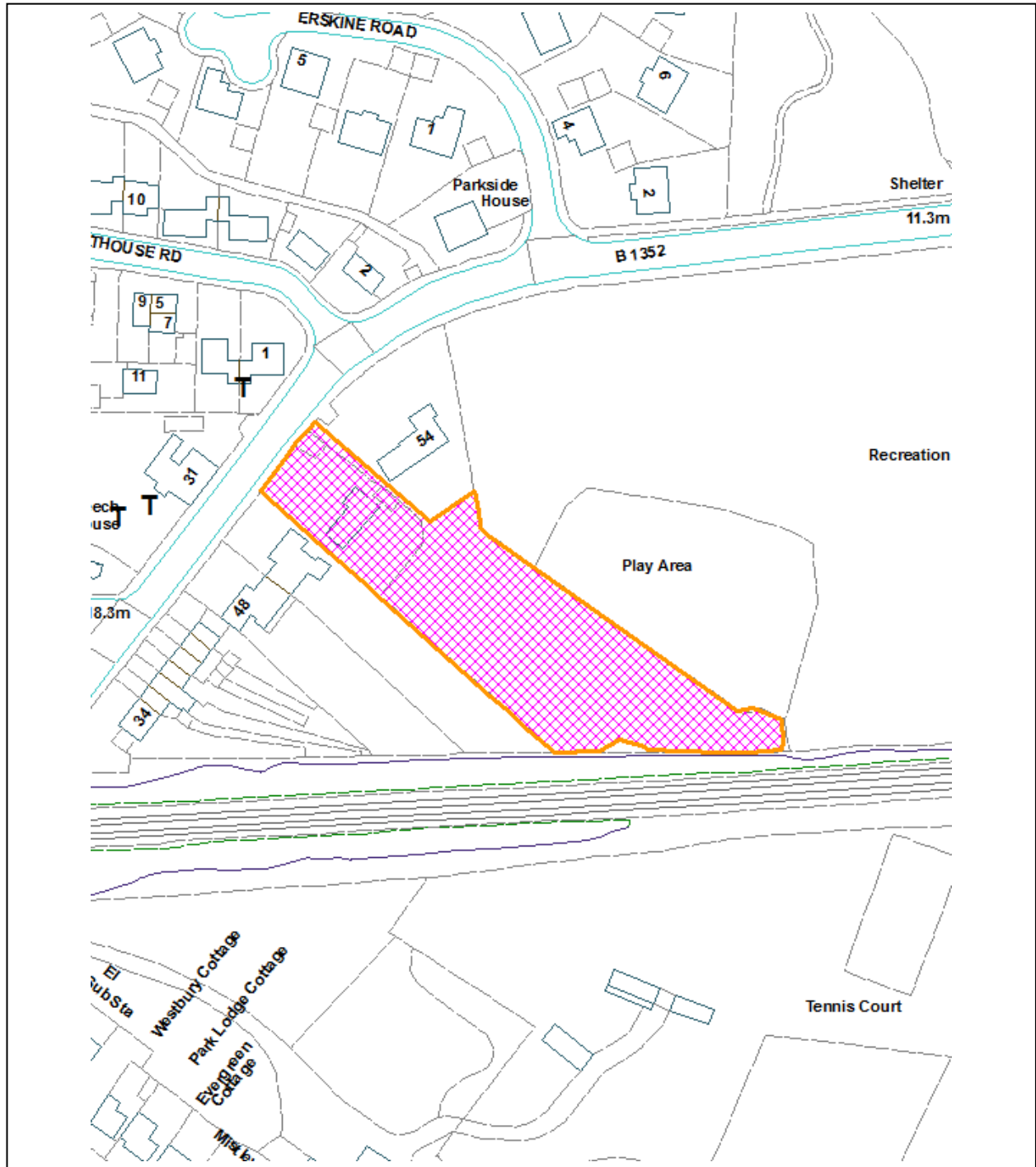


PLANNING COMMITTEE

31 October 2017

REPORT OF THE HEAD OF PLANNING

**A.2 PLANNING APPLICATION - 17/01183/FUL - LAND AT MORSCHACH, 52 NEW ROAD, MISTLEY, CO11 1BU**



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<b>Application:</b>	17/01183/FUL	<b>Town / Parish:</b> Mistley Parish Council
<b>Applicant:</b>	Mr R Giddings	
<b>Address:</b>	Land at Morschach, 52 New Road, Mistley, CO11 1BU	
<b>Development:</b>	Erection of 8 No. apartments and alterations to No. 52 New Road together with access and ancillary works.	

## 1. Executive Summary

- 1.1 This application has been called to Committee by Cllr G. Guglielmi for the following reasons:-

*This development will constitute gross back land overcrowding, thus constituting unnecessary over-development of the site and will adverse impact on the amenities of neighbouring properties, by loss of privacy, overshadowing and overlooking.*

*Furthermore I have concerns on traffic access/egress of the eventual car users of the new properties onto a poor visibility splay in New Road.*

- 1.2 The site lies outside the defined settlement boundary and within the Local Green Gap (Policy EN2) of the saved Local Plan but has been included within the settlement boundary (and outside of the Strategy Green Gaps – Policy PPL6) of the Publication Draft Local Plan.
- 1.3 Due to a lack of objection to the changes to the Strategic Green Gap/Settlement Development boundary within the Publication Draft Local Plan, appreciable weight can be attributed to that policy.
- 1.4 Recent appeals suggest that the Council cannot robustly demonstrate an available 5-year Housing Land Supply, and therefore permission should only be refused where the benefits are significantly and demonstrably outweighed by the harm
- 1.5 The development is therefore acceptable 'in principle' being in accordance with the emerging Local Plan, and is a sustainable location adjoining a larger settlement.
- 1.6 The design, siting and scale of the proposed dwellings are considered acceptable with no material harm to visual or residential amenity, or highway safety. The application is therefore recommended for approval.

**Recommendation:** Approve

### **Conditions:**

1. 3 year commencement
2. Dev in accordance with approved plans
3. Landscaping and tree protection/timescale to be agreed for implementation of landscaping
4. Matching materials for works to existing dwelling/materials to be submitted for new dwellings
5. Any conditions as advised by Highway Authority
6. Any conditions as advised by Environmental Health
7. Archaeology condition
8. Drainage details to be agreed

## 2. **Planning Policy**

NPPF National Planning Policy Framework

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG13 Backland Residential Development

HG14 Side Isolation

COM19 Contaminated Land

COM22 Noise Pollution

EN2 Local Green Gaps

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species

EN13 Sustainable Drainage Systems

EN17 Conservation Areas

EN20 Demolition within Conservation Areas

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

## Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SP1 Presumption in Favour of Sustainable Development

SP2 Spatial Strategy for North Essex

SP6 Place Shaping Principles

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

PPL6 Strategic Green Gaps

PPL8 Conservation Areas

CP1 Sustainable Transport and Accessibility

### **Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16<sup>th</sup> June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. As this plan is yet to be examined, its policies cannot carry the full weight of adopted policy. However, because the plan has reached publication stage its policies can carry some weight in the determination of planning applications. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

### **3. Relevant Planning History**

	balance crown of Hornbeam in front garden; Lime - remove spicormic growth, 2 Sweet Chestnuts repair storm damage/balance crown, 25% reduction to Beech and to prune Sycamores		
12/00592/TCA	Rear garden - 1 No. Beech - crown reduce by 30%, 1 No. Pine (cedar) - fell as affecting the Beech. Front garden - 2 No. Sycamore - crown reduce by 35 - 40%, 1 No. Magnolia - fell - too close to house, 1 No. Lime - reduce and balance by 35 - 40%	Approved	26.06.2012
14/00254/TCA	Per aerial view plan - front of property, T1 - remove top heavy lean. T2 - reduce by 40%. T3 - reduce by 40%. Rear of property, T4 - fell.	Approved	27.03.2014
16/30313/PREAPP	Partial-demolition of N.E elevation of No 53 (to allow for access), extension to S.E elevation of No 53, and erection of 2 No two-storey blocks of 4 apartments (8), served from new access drive and other ancillary works.		15.02.2017
17/01183/FUL	Erection of 8 No. apartments and alterations to No. 52 New Road together with access and ancillary works.	Current	
00/00356/TCA	Fell Ash, Pollard Sycamore and balance crown of Hornbeam in front garden; Lime - remove spicormic growth, 2 Sweet Chestnuts repair storm damage/balance crown, 25% reduction to Beech and to prune Sycamores	Approved	07.04.2000
TPC/10/92	25-30% crown reduction of 7 breadleaf trees in the front garden and to the Beech sited near the shed in the rear garden	Current	14.02.1992
TPC/94/28	Felling large Lime tree which is leaning towards adjacent property in rear garden in narrow corridor area	Current	16.06.1994
12/00592/TCA	Rear garden - 1 No. Beech - crown	Approved	26.06.2012

reduce by 30%, 1 No. Pine (cedar)  
 - fell as affecting the Beech. Front  
 garden - 2 No. Sycamore - crown  
 reduce by 35 - 40%, 1 No.  
 Magnolia - fell - too close to house,  
 1 No. Lime - reduce and balance  
 by 35 - 40%

12/60331/HOUEN Q	Erection of wall along front and part of side boundary		09.08.2012
14/00254/TCA	Per aerial view plan - front of property, T1 - remove top heavy lean. T2 - reduce by 40%. T3 - reduce by 40%. Rear of property, T4 - fell.	Approved	27.03.2014
17/01183/FUL	Erection of 8 No. apartments and alterations to No. 52 New Road together with access and ancillary works.	Current	

#### 4. **Consultations**

Environmental Protection I have reviewed the contaminated land survey and the noise impact  
assessment and can advise Pollution and Environmental Control have  
no comments to make on this application.

Environmental Protection Due to its location (within metres of a historical gas works and  
adjoining railway sidings) a full contaminated land survey will be  
necessary to identify any contaminated land affecting construction  
workers and the end users of the site.  
A full construction method statement will need to be produced and  
agreed in writing with this department. The following information can  
be used to assist the production of the statement:

The following information is intended as guidance for  
applicants/developers and construction firms. In order to minimise  
potential nuisance to nearby existing residents caused by construction  
and demolition works, Pollution and Environmental Control  
recommends that the following guidelines are followed. Adherence to  
this advisory note will significantly reduce the likelihood of public  
complaint and potential enforcement action by Pollution and  
Environmental Control.

##### Best Practice for Demolition Sites

Although the following notes are set out in the style of planning  
conditions, they are designed to represent the best practice  
techniques for the site. Therefore, failure to follow them may result in  
enforcement action under nuisance legislation (Environmental  
Protection Act 1990), or the imposition of controls on working hours  
(Control of Pollution Act 1974)  
Prior to the commencement of any demolition works, the applicant (or

their contractors) shall submit a full method statement to, and receive written approval from, the Pollution and Environmental Control. In addition to the guidance on working hours, plant specification, and emission controls given above, the following additional notes should be considered when drafting this document: -

#### ' Noise Control

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- 2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:1984.
- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

#### ' Emission Control

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

Waste Management	Associated bin stores to be secure and of sufficient size to accommodate multiple bulk bins for both residual waste and recycling materials. Access to and from the bin store to be on level ground.
The Council For British Archaeology	No response
Tree & Landscape Officer	As the application site is situated in the Mistley and Manningtree

Conservation Area all trees with a stem diameter greater than 75mm at 1.5m from ground level are afforded formal legal protection.

In order to assess the extent to which the trees are a constraint on the development of the land the applicant has provided a Tree Survey and Report. The information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction: Recommendations.

The report accurately describes the health and condition of the trees on the land and shows the extent of the constraint that they exert on the development potential of the land.

The applicant has also provided a site layout and block plan showing the positions of the proposed dwellings along with access and parking arrangements. Although this plan shows the positions of the trees it does not show the root protection areas so it cannot be used to assess the impact of the development on the trees on the land.

In order to show the potential impact of the development proposal on the trees the applicant should provide a plan showing both the arrangement of the proposed development and the Root Protection Areas of the trees. It will also be necessary to identify the way that retained trees would be physically protected for the duration of the construction phase of the development

At the present time the information provided does not demonstrate that the development proposal can be implemented without causing harm to the trees on the land.

In terms of the impact of the development on the character and appearance of the conservation area the introduction of the built form in the rear garden of the existing dwelling (54 New Road) will have an urbanising impact on local environs and consequently on the use and enjoyment of the Welcome Home Playing Field. The development proposal is not in keeping with the local settlement pattern.

No objections to amended plans retaining the 2 frontage trees within the visibility splay.

ECC Highways Dept

This Authority has assessed the highway and transportation impact of the proposal and does not wish to raise an objection to the above application subject to the following:

All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.

' Prior to occupation of the development, the access at its centre line

shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 70 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Note: If these visibility splays cannot be achieved within land covered by highway rights or under the applicant's control and a reduced provision is required, the applicant will need to provide evidence by way of a speed survey that the reduction in visibility splays will not create a highway safety issue.

' Prior to occupation of the development the vehicular parking and turning facility, as shown on the submitted plan 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 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

' No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

' Prior to the first occupation of the development, the proposed access shall be constructed to a width of 5.5 metres to the satisfaction of the Local Planning Authority.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

' Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

INF01 Highway Works - All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

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

Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ.

INF02 Cost of Works - 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.

INF03 - Site Workers - Steps should be taken to ensure that the Developer provides sufficient turning and off loading facilities for delivery vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

### **Comments on Amended Plans Awaited**

#### **ECC Archaeology**

The above planning application has been identified as having the potential to harm non-designated heritage assets with archaeological interest.

The proposed site lies within a Conservation Area and historic settlement of Manningtree. Manningtree is of considerable archaeological and historical importance, as an example of a small market town which contains elements of both a sea-port and an industrial town that retains its medieval street-pattern and parts of the medieval and early post-medieval built environment.

The proposed site lay beyond the original Medieval town and on the outskirts of the postmedieval expansion areas where industrial sites and related activity were located. In the early nineteenth century Manningtree was a major centre of the Essex malt industry with five separate sites in operation. The Lawford Works was also a major employer with three complexes producing leather and iron goods on the west side of the town. This industrial activity necessitated the construction of small terraces of worker's housing and more substantial managers' dwellings. In the late nineteenth century the erection of the huge Mistley maltings in the neighbouring parish effectively eclipsed the production of malt in Manningtree and parts of the Lawford Works appear to have gone into decline about the same time. The site lies within an enclosed area marked as Gresham Place which is depicted on the 1st edition OS maps and may be earlier in origin.

Further evidence for post medieval and later activity associated with the settlement may survive within the site.

The following recommendations are made in line with the Department for Communities and Local Government National Planning Policy Framework:

**RECOMMENDATION:** A Programme of Archaeological evaluation  
1. No development or preliminary ground-works can commence until a programme of archaeological evaluation has been secured and undertaken in accordance with a Written Scheme of Investigation,

which has been submitted by the applicant, and approved by the planning authority. Following the completion of this initial phase of archaeological work, a summary report will be prepared and a mitigation strategy detailing the approach to further archaeological excavation and/or preservation in situ, shall be submitted to the local planning authority.

2. No development or preliminary groundwork can commence on those areas of the development site containing archaeological deposits, until the satisfactory completion of archaeological fieldwork, as detailed in the mitigation strategy, which has been signed off by the local planning authority.

3. Following completion of the archaeological fieldwork, the applicant will submit to the local planning authority a post-excavation assessment (within six months of the completion date, unless otherwise agreed in advance with the planning authority), which will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. In the first instance a programme of trial trenching investigation will be required. A brief outlining the level of archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

## **5. Representations**

Mistley Parish Council – Comments on the initially submitted scheme:-

Mistley Parish Council objects to this planning application because it has concerns about;

- Within the Manningtree and Mistley Conservation Area
- Within the existing green gap and the proposed Strategic Green Gap in the new Local Plan;
- Over development of the site;
- Backland development;
- Access onto the bend of an already busy New Road, which is the principal road for the majority of heavy goods vehicle journeys to and from Mistley Quay, Edme, Crisp Maltings, and Mistley Marina; (6) proposed design of flats is not in keeping with the immediate locality;
- Site borders the Manningtree and Harwich branch line railway and so UK Rail Network ought to be consulted on siting of the proposed development;
- Tendring District Council has already achieved its five-year housing land supply, and
- Issue about flooding and need to check the water table as the site is adjacent to two natural springs – one which goes along the railway, which blocks regularly and causes flooding and the other goes beneath the Welcome Home Field.

Mistley Parish Council – Comments on the revised scheme:-

Mistley Parish Council objects to the amended plans and re-iterates our earlier objections.

25 neighbour representations have been received, which make the following points:-

- Mistley, Manningtree and Lawford has been over-run with new developments, and we have reached our quota
- The infrastructure cannot cope with any more houses
- There is one road out to Colchester and one train station to London, and one senior school and there is no capacity for more people
- The roads are more and more congested
- Site borders the AONB but you won't be able to see it for buildings and car-fumes
- It's destroying wildlife
- Not in-keeping with the surrounding area
- We are sick of a lovely house being knocked down to put 5 in its place
- There's already a new house being built opposite with another drive adding to the road problem
- There's been an explosion of cars and the development is on a blind-spot, and the extra traffic will make the road more dangerous
- No architectural merit in the plans
- This is a Conservation Area and there would be extensive removal of trees and hedgerows to allow for 90m visibility
- Contradicts the ideals of conservation and development is not sympathetic to the area
- With 1000 houses to be built in the next few years, there is no justification to build on every corner of land
- Will impact on local residents
- Impacts on the green gap in the new local plan
- This is backland development in the oddly-shaped back garden and contrary to Policy HG13, which discourages long drives, would be a harmful precedent out-of-character with the area
- New Plan Policy LP8 has similar restrictions on backland development
- The proposal is contrary to both Plan Policies
- The flats will be built at the back of the site near to the railway, and restrict views across the open space to the east of the site
- Views from the open space would be affected
- TDC now has a 5-year housing land supply, and there is a lot of new housing, so I cannot see how the applicants statement that the development would meet a housing need in the area can be correct
- Contrary to Policy HG3 as it is not within the dev limits of the settlement
- Un-necessary and undesirable over-development in an already congested area
- Community, environmental and strategic considerations that under-pin the new local plan, should not be set aside because the developer wants to build on a green space with apartment blocks
- Sets a very unwelcome precedent
- Altering an existing dwelling and building more for maximum financial gain is not in the communities best interest
- New Road is extremely busy, has parked cars, concealed drives and is very dangerous
- There will be an unacceptable adverse impact on the amenity of my property, over-looking/over-shadowing, loss of privacy and a loss of view
- Potential for noise and disturbance affecting my amenity and that of my neighbours
- There would be a huge impact and disturbance from the construction works, and construction vehicles parking/turning
- 16 parking spaces mean extra traffic – has ECC Highways assessed this properly?
- Protected species could be present at the site
- Area is walked by parents with young children and the site is next to the welcome home playing fields and play-space and is a war memorial – inappropriate for flats to over-look a children's play-space
- Un-necessary extra strain on local roads and amenities
- There are issues of flooding on the land

## 6. Assessment

The main planning considerations are:

- Principle of Development and 5-year Housing Land Supply
- Form of the Development
- Design and Impact on the Conservation Area
- Impact on Mature Trees
- Highway Safety, Parking and Access
- Noise and Contamination
- Residential Amenity

### Site Location

- 6.1 The site currently consists of an existing bungalow - Morschach, at 52 New Road, Mistley – a modern property of no particular architectural merit, which is accessed directly from New Road, close to the village playing field.
- 6.2 The property, along with No 54 - which is also owned by the applicant - have extensive gardens containing numerous outbuildings and several mature trees, the gardens extending to the railway line (which is in a cutting) to the south-east, and to the north-east is the playing field.
- 6.3 Each property has its own drive and turning space and there is a substantial boundary hedge to No 54 which follows the curve of the road, and the boundary to the playing fields has extensive tree cover.
- 6.4 The site is within a residential area, with individual detached, semi-detached and terraced houses fronting on to the southern side of New Road, and with several housing estates served from individual drives on the northern side of the road.
- 6.5 The site falls within the Conservation Area, and is defined within the adopted Tendring District Local Plan 2007 as being within the Local Green Gap and outside of the development limits, but within the settlement development limits and outside of the Strategic green Gap in successive versions of the draft Local Plan and the latest Publication Draft 2013-2033 and Beyond.

### Proposal

- 6.6 The application seeks permission to demolish the end element of No 52 New Road containing a gable feature, and to replace the lost floor area in an extension at the rear to create an 'L' shaped double-fronted 2 bedroomed bungalow.
- 6.7 It would have a central entrance porch and a parking area to the front and a walled garden to the rear.
- 6.8 The additional space to the side allows the existing drive to be widened to serve the land at the rear, and it is proposed to erect 2 blocks containing 4 flats each, of 2 bedroomed proportions, being 8 flats in total, 4 on each floor.
- 6.9 Each block would have the appearance of a terrace as there would be a front-door serving each ground floor flat, and a central door with staircase to serve the 2 upper flats and the buildings (in amended form) are an attractive design incorporating chimney stacks, hipped

roof with projecting gable features, projecting front bay-windows and with ornate door surrounds to the 3 front doors.

- 6.10 The flat blocks would be arranged at right-angles to each other, and would have extensive communal gardens to the front, side and rear, and with a turning area to the front, serving 16 parking spaces, created with grasscrete surfacing.
- 6.11 7 trees amongst the extensive group at the rear of the site are to be removed, 3 being near to the boundary with the playing field.
- 6.12 The widened access drive would be on to New Road, and the front boundary hedge to No 54 is to be removed and replaced behind the required visibility splay, and whilst this requires the removal of some conifer type trees, the mature lime and sycamore can be retained.
- 6.13 The applicant has submitted contamination and noise surveys, an arboricultural report and is currently liaising with the Highway Authority in relation to the provision of traffic calming measures for New Road.

#### Principle of Residential Development

- 6.14 The site lies partly outside the defined settlement boundary of the Saved Local Plan (the existing bungalow is within the SDL, whereas the proposed flats are outside that limit) and within the local green gap (Policy EN2), but within the settlement boundary and outside of the Strategic Green Gap of the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft Document (June 2017), the site having been identified early-on in the revised plan, that it should be included as part of the settlement, and subsequent editions of the Emerging Local Plan have favoured the development of the site.
- 6.15 The National Planning Policy Framework (The Framework) was published in March 2012 and replaces almost all previous Government planning guidance. The existing settlement development boundaries of the Saved Local Plan date from 2007, and reflect the level of development anticipated at that time, and as a result, the S.D.L shown in that plan are out-of-date, as confirmed by a lack of a demonstrable 5-year Housing Land Supply, and as a result, little weight can be attributed to the housing locational policies of the Adopted 2007 Local Plan, particularly Policy QL1.
- 6.16 The Council has been committed to the inclusion of this site within the Settlement Development Boundaries, and is identified as such within the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft Document (June 2017), and has been shown as such in successive drafts of the Emerging Local Plan.
- 6.17 As there have been no substantive objections to the inclusion of the land within the S.D.B and its non-inclusion within the Strategic Green Gap, increasing weight was to be attributed to its inclusion within the S.D.B. However recent appeals suggesting that the Council cannot show a 5-year supply of housing land result in that Policy being out-of-date before it is adopted, and therefore less weight can be attributed to it, although it does show that the Council were committed to the changed status of the site from the 2007 Local Plan.
- 6.18 With both the Adopted and the Emerging Local Plan policies considered to be out-of-date, less weight can be attributed to either plan, although clearly, the more recent policies within the Emerging Local Plan, more accurately reflect the current situation.
- 6.19 With little status being given to policy QL1, assessment of the principle of development falls to be considered under the National Planning Policy Framework (NPPF).

- 6.20 Chapter 6 of the NPPF has as an objective, the delivery of a wide choice of high quality homes. In order to facilitate this objective paragraph 49 of the NPPF sets out that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 6.21 It is accepted that the authority is currently unable to demonstrate a 5-year supply of deliverable housing sites with robust evidence, and as a result officers consider that Tendring District Local Plan (2007) Saved Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF. This view has also been supported by the Planning Inspectorate in 2 recent appeal decisions for similar outline schemes.
- 6.22 As has been stated already, the Council has published the Tendring District Local Plan 2013-2033 and Beyond Preferred Publication Draft Document (June 2017), and whilst the document has been submitted to the Secretary of State, formal adoption cannot take place before it has been examined, and found to be sound. Until that time the relevant emerging policies may be subject to change. When considered in relation to paragraph 216 of the Framework they may be afforded only limited weight.
- 6.23 With the Adopted but elderly Local Plan indicating one thing and the Emerging Plan another, based on the above it is considered that, in the absence of up-to-date policies, development proposals cannot be refused solely on the basis that a site is outside the development boundary as currently defined, nor can significant weight be attributed to the changed status within the emerging Local Plan. Paragraph 14 of the NPPF supports this view when it sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 6.24 Sustainable development  
On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight. As a result the current scheme falls to be considered against the 3 dimensions of 'sustainable development' being:-
- economic,
  - social; and,
  - environmental roles.

The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary.

### ***Economic Role***

- 6.25 Officers consider that the proposal would contribute economically to the area, for example by providing custom for services such as local shops and public houses within the immediate area and the nearby town centres. It is also considered that employment during the construction of the development will also take place, this could take the form of the developer utilising local services and tradesmen. It is therefore considered that this meets the economic arm of sustainable development.

### ***Social Role***

- 6.26 In respect of the social dimension, the proposed development will add to the mix of dwelling types in the area and be a nominal addition towards the 5-year housing supply figure.

- 6.27 Whilst not affordable housing, the scheme caters for both a modest 2 bedroomed bungalow, and eight 2-bedroomed flats, that would be lower-cost housing, which the applicant states are in short supply and the development would meet the need for smaller dwelling units.
- 6.28 The dwellings would be close to the existing settlement development boundaries – to the south-east of New Road, and the site is generally one within easy access to the towns many services and facilities, and the settlement is considered to be a sustainable location for new housing development.
- 6.29 The close proximity of the dwellings to the town is such that it would allow for the possibility that journeys would be undertaken on foot or by cycling, and the site would have good access to public transport, on balance, the site represents a highly sustainable location.
- 6.30 As such the application site performs reasonably well in regard to the social element of the NPPF's definition of sustainable development and assists in meeting the short-fall in housing land.

#### **Environmental Role.**

- 6.31 The environmental role is about contributing to protecting and enhancing the natural, historic and built environment which are considered below under Design and Impact on the Conservation Area, and Impact on Mature Trees.
- 6.32 The sections below conclude that there would not be a significant impact on the character of the Conservation Area, nor an appreciable impact on Protected Trees, and it is considered that the proposed development would have a positive impact upon the environment and would as a result satisfy the environmental role of sustainability as defined within the NPPF.

#### **Form of the Development**

- 6.33 The proposal includes the re-profiling of the existing bungalow to allow for an access to the side, and the resulting built-form would be a form of backland development. Such developments are present in the immediate locality, and form part of its character with several new and well-established cul-de-sac developments on the opposite side of New Road.
- 6.34 As a result, the form of the development would not appear out-of-place. It would constitute backland development, although as a policy that can limit housing supply, the backland policies are effectively out-of-date.
- 6.35 In any event, the backland development policies (HG13 and LP8) allow for development where the access road is not unduly long, the development would not be out-of-character and the development would not form a harsh urban 'edge'. In addition, cul-de-sac development forms the principle character in the area, the access drive is a modest one and the site is already well defined by the adjacent railway line, although there are no public vantage points where the sites boundaries can be readily viewed.
- 6.36 The development, whilst stated as being 'flats' is in effect, a modest 2 storey scheme that will have the appearance of traditional terraced housing and reflects the terrace further along New Road.

#### **Design and Impact on the Conservation Area**

- 6.37 Whilst there were appreciable concerns in relation to the initial scheme, in its revised form, the development proposed seeks to provide a modest bungalow on the New Road frontage, and a modest development of flats (which have the appearance of terraced housing) and is not dissimilar from that of the nearby terraced houses fronting on to New Road.
- 6.38 The proposed dwellings would be set back from New Road, to the extent that only glimpses of the buildings would be seen through gaps in the frontage and little more than fleeting views of the roof would be visible from the nearby playing fields.
- 6.39 As a result, the flat-development element of the proposal would not have any appreciable impact on the character of the Conservation Area, and the amended plans indicating 2 blocks with feature chimney stacks and appropriate fenestration, would not detract from, and therefore preserves, the character of the Conservation Area.
- 6.40 The parking is in modest groups well screened by trees and buildings and would not be prominent. The grass-crete surfacing would ensure a 'green' appearance when the parking is not in use.
- 6.41 The proposed changes to the bungalow on the road frontage are also considered to be visually acceptable in the Conservation Area. The existing bungalow has no particular merit, and the revised appearance has a feature front porch, a balanced appearance to the front elevation and a more pleasing appearance.
- 6.42 The proposal is not therefore considered to be harmful to the character of the Conservation Area, and therefore preserves its appearance, and complies with the relevant policies for development within such areas.

#### Impact on Mature Trees

- 6.43 The site has extensive tree-cover, although not all the trees - particularly those on the frontage, and within the garden of the existing dwellings - are of high quality, and they are protected by virtue of being within the Conservation Area.
- 6.44 The main trees on the boundary with the adjacent park/playing field/memorial field are retained, and an arboricultural report indicates that the scheme would not be harmful to the root protection area. Amended Plans have since been submitted which show the RPAs of the trees in accordance with the Tree Officers advice.
- 6.45 The trees which are to be felled are not of high amenity value, and the principal concern was the impact on the trees on the site frontage, especially the mature lime and a sycamore.
- 6.46 However the Highway Authority has indicated that providing the frontage hedge is replaced at the back of the visibility splay – and the land between the splay and the road is maintained at a low level, then they can accept the trees within the splay, and the applicant is to introduce traffic-calming measures as agreed with the Highway Authority to reduce traffic speeds on New Road to off-set the reduced visibility arising from the retention of the 2 mature trees within the visibility splay.
- 6.47 The result of the above is that all the trees of any merit can be retained and only poor quality trees that do not have a high amenity value are to be felled, and as such, the development would not harm the appearance of the locality or the character of the conservation area.

#### Highway safety, Parking and Access

- 6.48 The applicant has undertaken extensive pre and post-application discussions with the Highway Authority, and their traffic survey indicates that traffic on New Road is exceeding the 30mph speed limit and is actually travelling at up to 36mph.
- 6.49 As a result, the standard 2.4m x 43m visibility splays as advised by Manual-for-Streets are not appropriate and greater 2.4m x 54m splays are required, which results in the need to remove a front boundary hedge to No 54 New Road, and several conifer trees of no great visual merit.
- 6.50 The applicant indicates that appropriate landscaping and replacement hedging would be provided behind the visibility splays.
- 6.51 The applicant's proposed traffic-calming measures to reduce speeds appropriate to the visibility that can be provided and agreement has been reached with the Highway Authority regarding suitable signing and white-lining on the road to assist in slowing down passing vehicles.
- 6.52 The Highway Officer has stated the following:-  
In this regard the Highway Authority will accept the proposed scheme as shown.
- To reiterate, this Authority therefore accepts;
- The traffic calming measures as shown on the submitted drawing
  - Removal of all the vegetation along the site frontage, except the Sycamore and Lime, as these are accepted as limitations within the visibility splay
  - The remaining visibility splays measuring 2.4x54m clear to ground level
  - Any new planting should be positioned at least 1m behind the new visibility splay thereby ensuring any future growth does not encroach into the visibility splay
- 6.53 The formal comments/conditions regarding the amended plans/traffic-calming are anticipated, and will be reported on the Committee update sheet, however it is apparent that the Highway Authority considers that the amended proposals are acceptable in highway safety terms, and paragraph 32 of the N.P.P.F states:-
- Plans and decisions should take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
  - safe and suitable access to the site can be achieved for all people; and
  - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development.
- Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.54 It is considered that with the changes to the scheme, and the traffic-calming measures agreed with the Highway Authority, that the residual impact of the proposal would not be severe and a refusal on traffic safety grounds could not therefore be justified.
- 6.55 The proposal is a modest development of smaller dwelling units, within a sustainable location close to the centre of a larger settlement, and the scheme provides for 16 parking spaces to serve the 8 flats (the existing bungalow would also have 2 parking spaces) and this meets the requirement of the Adopted Parking Standards .
- 6.56 The proposal is considered to be acceptable in terms of parking provision.

#### Noise and Contamination

- 6.57 There was an initial concern expressed by the Environmental Health Department, that due to nearby sites known to be contaminated, there was potential for contamination at the application site, and that there was also potential for noise arising from the adjacent railway line.
- 6.58 The applicant has commissioned a contamination report and a noise survey, which demonstrates that contamination and noise would not be limiting factors in relation to the development of the site, the Environmental Health officer indicating that:- "I have reviewed the contaminated land survey and the noise impact assessment and can advise Pollution and Environmental Control have no comments to make on this application".
- 6.59 The proposal therefore meets the appropriate policies relating to contamination and noise.

#### Residential Amenity

- 6.60 The proposed development would be situated to the rear of existing properties that front on to New Road, and therefore there is potential for noise/disturbance arising from the use of the access, as well as the usual issues of a loss of light, and loss of privacy from over-looking.
- 6.61 The access drive serving the proposed development, is situated an appropriate distance from No.s 52 and 54 New Road, such that the coming and going of vehicles would not cause any undue disturbance.
- 6.62 The proposed alterations to the bungalow (No. 52). Would not bring the building any closer to the neighbours at No 50 and 54 New Road, and there would be no increase in the amount of built form on the boundary, nor any additional windows, and as a result, the works to the existing bungalow, would not have any increased impact on the amenity of the adjoining dwelling, and the proposal is considered to be acceptable in relation to the alterations to that property.
- 6.63 The new flat-type dwellings are located a considerable distance from the nearest neighbour at No 50 New Road. Whilst there would be habitable room windows in the gable wall facing that neighbour (being 3 bedroom windows at ground floor, and 2 bedroom and a lounge window at first floor), the proposed flat block is, at its nearest point – some 44m away from the nearest part of the neighbours dwelling, this is more than twice the normally accepted distance between dwellings.
- 6.64 At such a considerable distance, the development would not cause any over-looking, a loss of privacy, or any over-shadowing of the neighbours dwelling. Nor despite being 2-storey in height would the development be oppressive for the nearest property.
- 6.65 The proposed car-parking for the flats is provided 4 discrete areas, and 7 spaces are proposed in the 'gap' between the existing bungalow on the site and the front of the proposed flats, and at its nearest point, that element of car parking would have a 16m separation distance from the neighbour and as a result, no appreciable loss of amenity would result.
- 6.66 Whilst the proposed car parking would be close to the boundary with the neighbours' rear garden, that garden is a substantial one, being over 60m long and 13m in width. Whilst there could be some noise from the parking audible within some parts of the garden, it is not considered to be a sufficient intrusion to warrant the refusal of permission.
- 6.67 One of the proposed flat blocks would be in close proximity to the garden of the neighbour – around 2 ½m from the boundary. There could be some over-looking from the upper-floor

windows (2 bedrooms and 2 obscure glazed bathroom windows), but the windows would look in to the very bottom of the neighbours' long rear garden, the furthest distance from the dwelling, at 46m distant.

- 6.68 There would inevitably be a modest degree of over-looking of the neighbour's garden. However, due to the substantial size of the garden, it would be unreasonable to expect that every part of the garden be completely private. In any event, the garden is already overlooked from the dormer windows within the other half of that semi-detached bungalow.
- 6.69 Due to the modest degree of overlooking of the bottom of the garden from upper-floor bedroom windows (which are unlikely to be occupied when the residents are enjoying their garden), it is not considered that a refusal on that ground would be justified.
- 6.70 On balance, and in the absence of a 5-year Housing Land Supply, the benefits of the scheme are not out-weighted by any harmful impacts. The development is therefore an appropriate one and recommended for approval.

Background Papers

None