

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	AN	25/01/24
Team Leader authorisation / sign off:	ML	25/01/24
Assistant Planner final checks and despatch:	ER	26/01/24

Application: 23/01706/OUT **Town / Parish:** Wix Parish Council

Applicant: Mr De Roy - De Roy Tool Co. Ltd

Address: Land rear of No's 1 to 4 Colchester Road Wix

Development: Outline Planning Application (Access to be considered, all other matters are reserved) for erection of up to eight dwellings.

1. Town / Parish Council

None received

2. Consultation Responses

ECC Highways Dept
23.01.2024

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 site visit. It is noted that the application is identical to previous planning application: 22/01247/OUT that the Highway Authority objected to. The site is situated on the Colchester Road that is subject to a 30-MPH speed limit to the east of the existing access and a de-restricted speed limit to the west. As before, the proposal would utilise an existing access onto the Colchester Road that is situated just within the de-restricted speed limit and is currently 3.2 metres in width with an unmade surface. The existing footway along Colchester Road is only 1 metre in width adjacent to a private boundary hedge in excess of 1.5 metres in height.

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

1. The Highway Authority will protect the principal use of the highway as a right of free and safe passage of all highway users.

2. The proposal would intensify the use of an existing access onto Colchester Road (secondary distributor) where visibility, from the proposed site access and forward visibility along Colchester Road, is not in accordance with current safety standards. The main function of this highway is that of carrying traffic freely and safely between centres of population. The existence of an access in this location is a matter of fact and therefore some degree of conflict and interference to the passage of through vehicles already occurs but the intensification of that conflict and interference which this proposal would engender would lead to a deterioration in the efficiency of the through road as a traffic carrier to the detriment of highway safety.

3. It is noted that the latest application disputes the position of the terminal signs for the 30-mph speed limit, stating that they should be position approximately 10 metres further west so the access to the site would be within the extent of the 30-mph speed limit. This issue has been raised with the County's Policy team who manage speed limits across the County, they have stated that bearing in mind this has been in situ since 1996 and if the signs had only been installed at a distance of 620 metres (which is entirely legal, and the order does not need changing) there may have been reasons for this at the time. Such as:

- nowhere to install it elsewhere,

- did not get the correct forward visibility of the sign,
- did not get the correct distance of the sign required for visibility.
- had the signs been located more than 630 metres then this would affect the speed limit and Traffic Regulation Order (TRO) making it unenforceable.
- However, if it was necessary to move the signs, a further 10 metres west, it is not going to have the desired effect in changing driver behaviour this is partly proven by the results of the speed survey.

However, the speed limit distance has been checked on site and from the current position of the terminal signs to the centre of the junction of Colchester Road with Clacton Road it measured approximately 629.5 metres (the TRO states a distance of approximately 630 metres as such the signs do not need to be moved).

The proposal is therefore contrary to policy DM1, DM3 and DM7 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1. The proposal would lead to the intensification of an existing vehicular access. As far as can be determined from the submitted plans, and as before with the previous application, the proposed access has not been provided with the required vehicular visibility splays which must be over land in the applicant's control and/or highway land. The lack of such visibility would result in an unacceptable degree of hazard to all road users to the detriment of highway safety as stated in the recommendation above. The visibility splay drawing (dated: 5/12/23) within the supporting information has not been measured from and along the nearside edge of the carriageway or been based on the recent speed survey results.

2. The vehicular access is located in Colchester Road. It is located on the approach side just south-west of the 30mph speed limit and just within the derestricted speed limit of 60mph. Based on the radar speed survey results submitted with this application it highlights a highest 85th percentile speeds of 41.5 mph (eastbound) and 41.8 mph (westbound) between 0900 and 1600 hours. This reinforces the inspector's view for the previous application that: 'Furthermore, as cars are likely to be passing the access at speeds in excess of 30mph, the plotted and available visibility splays would be unlikely to be sufficient to provide adequate visibility in either direction'.

The edge of village location of the site and narrow footway adjacent to the proposed site access on Colchester Road is such that access to key facilities, public transport, employment, and leisure opportunities is limited and for the vast majority of journeys the only practical option would be the car. This should be taken into consideration by the Planning Authority when assessing the overall sustainability and acceptability of the site.

Essex County
Council Ecology
20.12.2023

Thank you for consulting Place Services on the above outline application.

Holding objection due to insufficient ecological information on European Protected Species (Hazel Dormouse) and protected species (reptiles).

Summary

We have reviewed the documents supplied by the applicant including the Planning Statement (Stanfords, November 2023), relating to the likely impacts of development on designated sites, protected & Priority species and habitats and identification of proportionate mitigation.

We are not satisfied that there is sufficient ecological information available for determination of this application.

This is because no ecological information has been submitted in support of this outline application.

We note that the site lies directly south of the A120 (Wix Bypass), which is known to have recent and abundant records of Hazel Dormouse (European Protected Species) along both sides of the road. Furthermore, upon review of aerial imagery we note there is good connective habitat from areas of confirmed presence to the site, with only minor / partial barriers to dispersion existing. As a result, it could be likely that Hazel Dormouse could be present onsite. Furthermore, although unclear from aerial imagery, the proposed plans, and the Planning Statement (Stanfords, November 2023), a section of hedgerow may need to be removed to facilitate a proposed access road connecting the existing track and the southwest corner of the site. Therefore, without further assessment of the site suitability to support this species, the LPA does not have certainty of the likely impacts to Hazel Dormouse, a European Protected Species.

In addition, we note that the site likely contains rough tussocky grassland which could be suitable for common reptile species such as Common Lizard, Slow-worm, and Grass Snake. However, the extent of which is uncertain with use of aerial imagery alone. Therefore, without further assessment of habitats onsite by a suitably qualified ecologist to assess the site's potential suitability to support reptile species, the LPA does not have certainty of the likely impacts to these protected species.

Therefore, it is considered reasonable that a Preliminary Ecological Appraisal should be submitted by the appellant's ecologist to provide adequate assessment of the proposals to inform the need for any further surveys and, if necessary, mitigation and compensation for impacts from this application. Any surveys must be undertaken by suitably qualified ecologists, at the appropriate time of year, using standard methodologies, and professional judgement should be used to come to reasoned conclusions as to the likelihood of species being present and affected by the proposed development.

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

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

Additionally, no biodiversity enhancement measures are identified in the documents provided. We recommend that, to secure net gains for biodiversity, as outlined under Paragraph 174d and 180d of the National Planning Policy Framework 2023, reasonable biodiversity enhancement measures will need to be provided.

Furthermore, 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, we note that the LPA has prepared a project level HRA Appropriate Assessment to secure a per dwelling tariff by a legal agreement for delivery of visitor management measures at the designated sites. This will

mitigate for predicted recreational impacts in combination with other plans and projects and avoid Adverse Effect on Integrity of the designated Habitats sites.

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

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

Tree &
Landscape
Officer
14.12.2023

The application site is set to grass and there are no trees or other vegetation in the main body of the application site. There are established trees with some hedgerows on, or close to, the western, northern and eastern boundaries of the application site. The tree species comprise of primarily Oak and Field Maple with hedgerow species primarily Hawthorn.

At the present time the existing vegetation provides a reasonable level of screening and contributes to the contained nature of the application site.

As the Root Protection Areas (RPA's) of the trees are likely to spread into the application site the applicant will need to provide information to show that the above trees will not be harmed by the implementation of the proposed development.

In this respect the applicant has provided a plan showing that a protective fence can be erected at approximately 5m from the trees situated on the site boundaries. This should provide an adequate level of protection for most of the trees although it is noted that the applicant has not submitted any evidence demonstrating the justification for the proposed position of the fence.

This would normally be by way of an Arboricultural Impact Assessment (AIA) containing information relating to the stem diameter and Root Protection Areas (RPA's) of the trees and should be in accordance with BS5837 2012 Trees in relation to design demolition and construction. Recommendations.

This information should be submitted prior to the determination of the application to ensure that the position of the protective fencing is set at a distance from the trees compliant with the above British Standard.

Should planning permission be likely to be granted then details of soft landscaping should be secured by a planning condition. Soft landscaping should aim to soften, screen and enhance the appearance of the development.

UU Open
Spaces
21.12.2023

Public Realm Assessment

Play Space - current deficit:

- Deficit of 0.56 hectares of equipped play in Wix

Formal Play - current deficit:

- Deficit of 0.62 hectares of open space in Wix

Settlement provision:

- One play area located at The Village Hall, Harwich Road 0.8 miles from the village hall

Officer Conclusions and Recommendations

Contribution necessary, related, and reasonable?
to comply with CIL Regs*

- Whilst there is an overall deficit of open space and play in Wix, the facilities are adequate to cope with some additional development.

Identified project*:

(In consultation with Town / Parish Council on upcoming projects or needs for maintenance)

- Not applicable

Environmental
Protection
12.12.2023

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

Noise: Given the sites proximity to a main A Road, the EP Team request that prior to commencement of the development a full Noise Assessment (completed by a competent person) should be submitted to the Local planning authority showing the proposed residential units (with the windows closed) meet the required internal noise levels as set out in BS8233.

Contaminated Land: Given the sites historical use and surrounding agricultural land, and having consideration for the scale of the development - the EP Team are requesting a minimum of a Phase One Contaminated Land Survey be performed, to ensure the land is suitable for the proposed end use - The following works shall be conducted by competent persons and in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and other current guidance deemed authoritative for the purposes. The development hereby permitted shall not commence until the measures set out in the approved report have been implemented.

A. Site Characterisation

Notwithstanding the details submitted with this application, no development shall commence other than that required to carry out additional necessary investigation which in this case includes demolition, site clearance, removal of underground tanks and old structures until an investigation and risk assessment has been submitted to and approved in writing by the local planning authority. The risk assessment shall assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include:

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

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

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

5. Planning History

22/01247/OUT	Outline Planning Permission for erection of up to 8 dwellings (all matters reserved).	Non-det appeal dismissed	14.08.2023
23/01706/OUT	Outline Planning Application (Access to be considered, all other matters are reserved) for erection of up to eight dwellings.	Current	

6. 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.

7. Relevant Policies / Government Guidance

Local:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 (adopted January 2021)

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP8 Backland Residential Development
- PPL1 Development and Flood Risk
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL10 Renewable Energy Generation and Energy efficiency Measures
- CP1 Sustainable Transport and Accessibility
- CP2 Improving the Transport Network
- DI1 Infrastructure Delivery and Impact Mitigation

Supplementary Planning Documents

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

Tendring Provision of Recreational Open Space for New Development SPD 2008

Essex Design Guide

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

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

8. Officer Appraisal

Proposal

Outline Planning Application (Access to be considered, all other matters are reserved) for erection of up to eight dwellings.

History

22/01247/OUT for the same development was subject to a non-determination appeal. The Council confirmed its reason for refusal would have related to intensification of use of a vehicular access with inadequate visibility splays onto Colchester Road leading to a deterioration in the efficiency of the through road as a traffic carrier and an unacceptable degree of hazard to all road users to the detriment of highway safety.

The appeal was dismissed on 20/10/23 solely on highway safety grounds. The conclusion confirmed: *The proposal would make efficient use of land within a village, would boost the supply of housing, and deliver other limited benefits that would garner support from the Framework. In contrast, the proposal does not adequately demonstrate that access can be achieved without causing substantial detriment to highway safety. This would result in conflict with the development plan when taken as a whole.*

The applicant contests that the 30mph sign has been positioned in the wrong location and the site access should be within the 30mph zone and has submitted a formal complaint on this point to the Highway Authority.

Context

The site is currently mown grass with trees and hedgerows to the boundaries and lies to the rear of frontage dwellings on Colchester Road. It has an access track to the northern boundary serving the allotments which abut the eastern boundary. Further to the north is a ditch and narrow field adjacent to the A120. The site is served by an unmade track which continues along the western site boundary, serves the allotments, and then joins the A120. Further to the west is a reservoir.

The site lies wholly within the settlement development boundary for Wix. The northern edge and northeast corner of the site is also an identified area of low to medium surface water flood risk.

Representations

1 letter of objection has been received summarised below:

- Removal of some hedge to create a passing place will harm privacy
- Identify inaccuracies in the Planning Statement
- The footpath to the centre of the village is narrow, uneven, not fully lit, and sometimes obstructed by parked cars
- Wix has already been subject to substantial development and facilities are at capacity
- Light pollution
- Lane is rarely used by vehicles
- Bats witnessed in neighbouring trees
- Noise disturbance and loss of privacy
- Poor vehicular visibility and safety
- 30 mph sign has been in place 27 years
- Improved fencing is required for privacy and security

Principle of development

The site is located within the Settlement Development Boundary for Wix, which is defined as a Smaller Rural Settlement within TDLF Policy SPL1. TDLF Policy SPL2 states that within the Settlement Development Boundaries there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies. The principle of residential development is therefore acceptable subject to the detailed considerations below.

Landscape impact

The site has been included within the settlement development boundary but is currently a grassed field surrounded by boundary trees and hedgerow. The site is clearly visible from the edge of the A120 to the north and rises upwards to the southern boundary with dwellings fronting Colchester Road. The height and density of dwellings on the site will need to be carefully considered at reserved matters stage to ensure a development which is in keeping with this rural edge of settlement location and retains adequate space for soft landscaping to soften the appearance of the new development in views from the north. The site is not visible from Colchester Road, and it is unlikely that the roofs of bungalows would be visible through the gaps in dwellings from Colchester Road given the site level.

Design/layout

The proposal seeks outline planning permission with only access included for consideration at this stage. An indicative layout has been provided which indicates how the site could be laid out for 8 dwellings with associated off street parking, turning and private gardens. As highlighted during consideration of 22/01247/OUT, the Council has strong concerns with the number of units proposed on this site which, contrary to TDLP Policies LP3, LP4 and SPL3 would be out of character with the undeveloped rural character of the locality and would not represent an appropriate transition between existing built development and the open countryside. The description provides for 'up to' eight dwellings so these concerns are capable of being addressed through a reduced reserved matters submission for layout so this does not need to represent a reason for refusal at this stage.

Access

Paragraph 114 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. TDLP S2 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. TDLP S2 Policy CP 1 states proposals for new development must be sustainable in terms of transport and accessibility and therefore should include and encourage opportunities for access to sustainable modes of transport including walking, cycling and public transport. TDLP S2 Policy CP 2 states planning permission should not be granted if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.

The site is served by an existing unmade track off Colchester Road which continues to serve allotments before joining the A120.

The Inspector's reason to dismiss the appeal related to the failure to demonstrate that vehicular access can be achieved without causing substantial detriment to highway safety. The Council confirmed its reason for refusal would have related to intensification of use of a vehicular access with inadequate visibility splays onto Colchester Road leading to a deterioration in the efficiency of the through road as a traffic carrier and an unacceptable degree of hazard to all road users to the detriment of highway safety.

Paragraph 17 of the appeal decision states: Passing bays are proposed along the access track. This would improve the general flow of traffic on the track and the scheme would introduce bollards to prevent access through onto the A120. These benefits, although limited, would weigh in favour of the scheme.

Additional highways information has been submitted by the applicant. The Highway Authority have recently visited the site to assess the proposal and object on comparable grounds to the previous reason for refusal. They add: It is noted that the latest application disputes the position of the terminal signs for the 30-mph speed limit, stating that they should be positioned approximately 10 metres further west so the access to the site would be within the extent of the 30-mph speed limit. This issue has been raised with the County's Policy team who manage speed limits across the County, they have stated that bearing in mind this has been in situ since 1996 and if the signs had only been installed at a distance of 620 metres (which is entirely legal, and the order does not need changing) there may have been reasons for this at the time (reasons detailed in their consultation response). They confirm: the speed limit distance has been checked on site and from the current position of the terminal signs to the centre of the junction of Colchester Road with Clacton Road it measured

approximately 629.5 metres (the TRO states a distance of approximately 630 metres as such the signs do not need to be moved).

The vehicular access onto Colchester Road is therefore within the derestricted speed limit of 60 mph. The Highway Authority add: based on the radar speed survey results submitted with this application it highlights a highest 85th percentile speeds of 41.5 mph (eastbound) and 41.8 mph (westbound) between 0900 and 1600 hours. This reinforces the inspector's view for the previous application that: 'Furthermore, as cars are likely to be passing the access at speeds in excess of 30mph, the plotted and available visibility splays would be unlikely to be sufficient to provide adequate visibility in either direction'.

The Highway Authority also raise concern with the edge of village location of the site and narrow footway adjacent to the proposed site access on Colchester Road, meaning that access to key facilities, public transport, employment, and leisure opportunities is limited and for the vast majority of journeys the only practical option would be the car. It is accepted that the majority of trips from the site are likely to be by private transport, however the site lies within the settlement development boundary and in determining the recent appeal the Inspector did not raise any concerns in this regard.

Ecology/biodiversity

TDLP S2 Policy PPL4 confirms proposals for new development should be supported by an appropriate ecological assessment. Where new development would harm biodiversity or geodiversity, planning permission will only be granted in exceptional circumstances, where the benefits of the development demonstrably outweigh the harm caused and where adequate mitigation or, as a last resort, compensation measures are included, to ensure a net gain, in biodiversity.

No ecological surveys have been submitted with this application, and none were submitted with the previous application/appeal. At the time of the site visit the site was short grass with trees and hedgerows to the site boundaries and open countryside/allotment/reservoir/ditch beyond, there is an existing gated access to the site through a break in the hedgerow. Ideally a Preliminary Ecological Appraisal would have been submitted with this outline planning application to establish the likely presence or absence of protected species. However, this was not raised as a reason for refusal in the previous application and was not raised as an objection within the recent appeal decision.

Place Services Ecology have been consulted on the application and have a holding objection due to insufficient ecological information on European Protected Species (Hazel Dormouse) and protected species (reptiles). The site lies directly south of the A120, which is known to have recent and abundant records of Hazel Dormouse (European Protected Species) along both sides of the road. Furthermore, upon review of aerial imagery they note there is good connective habitat from areas of confirmed presence to the site, with only minor / partial barriers to dispersion existing. As a result, it could be likely that Hazel Dormouse could be present onsite. They also consider it likely that the site contains rough tussocky grassland which could be suitable for common reptile species such as Common Lizard, Slow-worm, and Grass Snake. Without a Preliminary Ecological Appraisal, the LPA does not have certainty of the likely impacts to protected species. Additionally, no biodiversity enhancement measures are identified in the documents provided.

The application seeks consent for up to eight dwellings. In principle the site could therefore accommodate a low number of dwellings sited clear of the existing boundary vegetation, so it is unaffected. The absence of ecological surveys was not a reason for refusal in the previous application and was not raised as an objection within the recent appeal decision., it is therefore considered unreasonable to introduce it as a reason for refusal within this resubmission. Conditions could be imposed on any approval securing submission of a Preliminary Ecological Appraisal concurrent with the reserved matters for layout, and submission of a biodiversity enhancement plan to ensure that existing habitat/vegetation is retained and/or enhanced within the detailed proposal.

Trees

The application site is set to grass and there are no trees or other vegetation in the main body of the application site. However, there are established trees with some hedgerows on, or close to, the western, northern and eastern boundaries of the application site. The tree species comprise of primarily Oak and Field Maple with hedgerow species primarily Hawthorn. As the Root Protection

Areas (RPA's) of the trees are likely to spread into the application site the applicant has provided a plan showing that a protective fence can be erected at approximately 5m from the trees situated on the site boundaries. This should provide an adequate level of protection for most of the trees although it is noted that the applicant has not submitted any evidence demonstrating the justification for the proposed position of the fence. This would normally be by way of an Arboricultural Impact Assessment (AIA) containing information relating to the stem diameter and Root Protection Areas (RPAs) of the trees and should be in accordance with BS5837 2012 Trees in relation to design demolition and construction. Recommendations. Ideally this information should be submitted prior to the determination of the application to ensure that the position of the protective fencing is set at a distance from the trees compliant with the above British Standard. However, as layout is a reserved matter as discussed under the ecology section above it is considered that a condition could be imposed on any approval securing submission of an AIA or equivalent concurrent with the reserved matters for layout. Landscaping is a reserved matter so the detail of on onsite landscaping would be assessed under any reserved matters submission.

Residential amenity

The site abuts the long rear gardens of houses fronting Colchester Road (numbers 1-5 Colchester Road). The submission indicates bungalows are proposed, however scale is a reserved matter. By virtue of the distance between the existing dwellings and the site boundary a proposal could be submitted at reserved matters which results in no material harm to the privacy or light of neighbouring occupiers. Existing vegetation, site levels and separation distance would also allow a scheme which prevents any material harm to outlook. The noise associated with up to eight additional dwellings in this location, close to the A120, is not considered likely to result in material disturbance to neighbouring occupiers.

A Construction Method Statement has been submitted and reviewed. This could be conditioned on any approval to minimise disturbance to nearby residents during construction.

Due to the site's proximity to the A120, Environmental Pollution have requested a full noise assessment to demonstrate that the proposed dwellings with the windows closed would meet the required internal noise levels as set out in BS8233. This could be conditioned on any approval.

Drainage

The site area and proposal falls significantly below the threshold where a flood risk assessment would be required. The northern edge and northeast corner of the site are an identified area of low to medium surface water flood risk. As discussed above the layout of the proposal is a reserved matter. Ensuring these areas remain undeveloped can therefore be secured at reserved matters stage in the interests of not increasing the flood risk of the surrounding area.

TDLP Policy PPL5 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. The application form confirms connection will be to mains sewer.

Heritage Assets

The site is not within a conservation area or the setting of any listed buildings. The site is not identified as being likely to contain archaeological remains.

Sustainable Construction and Energy Efficiency

TDLP S2 Policy PPL10 states that proposals for new development should consider the potential for renewable energy generation, appropriate to the site and its location, and should include renewable energy installations, or be designed to facilitate the retro-fitting of renewable energy installations.

A water, energy and resource efficiency measures document and details of electric vehicle charging have been submitted. It is considered these matters could be addressed by condition.

Financial contributions

The site lies within the Zone of Influence (ZoI) for Special Protection Areas, Special Areas of Conservation and Ramsar sites for Hamford Water to protect wading birds and wildfowl. As such, it is necessary for the applicant to commit to making a financial contribution by way of a unilateral

undertaking for the proposal to offset the recreational disturbance impacts of the new dwellings on this SPA/Ramsar site prior to the commencement of development in accordance with the requirements of Policies SP2 and PPL4 of the adopted Local Plan and in accordance with the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020. The applicant previously submitted a unilateral undertaking to the Council for the appeal however the UU is not worded to apply to future applications, and the stated RAMS fee is also now slightly increased. A request letter was sent on 8th January confirming the requirement for a RAMS UU however this has not been progressed. The proposal therefore fails to comply with Policies SP2 and PPL4 of the adopted Local Plan.

Other considerations

Given the site's historical use and surrounding agricultural land, the Environmental Protection Team request a Phase One Contaminated Land Survey be performed, to ensure the land is suitable for the proposed end use. This could form a pre-commencement condition of any approval.

The applicant's attention is drawn to the advisory comments from Essex Police.

Confirmation has been received from the Open Space team that a financial contribution towards the improvement of public open space is not required.

Conclusion

The proposal would make efficient use of land within a village, would boost the supply of housing, and deliver other limited benefits that would garner support from the Framework. In contrast, the proposal does not adequately demonstrate that access can be achieved without causing substantial detriment to highway safety. This would result in conflict with the development plan when taken as a whole. The application is therefore refused on the same grounds as the recent non-determination appeal plus the failure to provide the RAMS UU.

9. Recommendation

Refusal - Outline

10. Reasons for Refusal

- 1 Policy SPL3, Part B a. (Practical Requirements) of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond (Sustainable Design) states that access to the site is practicable and the highway network will, following any required mitigation, be able to safely accommodate the additional traffic the proposal will generate and not lead to severe traffic impact, whilst Policy CP2 of the Tendring District Local Plan 2013-2033 and Beyond (Improving the Transport Network) states that proposals will not be granted planning permission if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe. Such advice is echoed within paragraph 114 of the National Planning Policy Framework.

The proposal would intensify the use of an access onto Colchester Road where it has not been evidenced that the required visibility splays, in accordance with current highway standards for a vehicular access, can be achieved and appropriately secured in perpetuity. The main function of Colchester Road is that of carrying traffic safely and efficiently between substantial rural populations and on through routes in built up areas. The existence of an access in this location is a matter of fact and therefore some degree of conflict and interference to the passage of through vehicles already occurs, but the intensification of that conflict and interference which this proposal would engender would lead to a deterioration in the efficiency of the through road as a traffic carrier and an unacceptable degree of hazard to all road users to the detriment of highway safety. The proposal would therefore be contrary to Policy SPL3, Part B a. and Policy CP2 of the Tendring District Local Plan 2013- 2033 and Beyond and contrary to advice contained within paragraph 114 of the National Planning Policy Framework relating to highway safety.

- 2 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

Plans and Supporting Documents

The Local Planning Authority has resolved to refuse the application for the reasons 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):

Plan indicating extent of public highway received 01/12/23

Protective Fencing plan received 01/12/23

Visibility splays plan received 01/12/23

Drawing numbers 200 01, 200 01A, and LS 4697/2 received 01/12/23

Construction Method Statement, Energy Statement and EV Charging Specification received 01/12/23

Planning Statement dated November 2023

Radar speed survey received 01/12/23

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal. However, the visibility splay 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 reasons for refusal, approval has not been possible.

12. Equality Impact Assessment

In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic* and those who do not, including tackling prejudice and promoting understanding.

It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

13. **Notification of Decision**

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