

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	NH	21/02/24
Team Leader authorisation / sign off:	JJJ	21/02/2024
Assistant Planner final checks and despatch:	ER	21/02/2024

Application: 23/01460/FUL **Town / Parish:** Thorrington Parish Council

Applicant: Mr Darren Sell

Address: Darmel Lodge Brightlingsea Road Thorrington

Development: Proposed new chalet bungalow to the rear of Darmel Lodge with new access, and retention of existing bungalow (Darmel Lodge).

1. Town / Parish Council

Thorrington Parish Council No comments received.

2. Consultation Responses

Tree & Landscape Officer
14.11.2023

The front garden of the application site is demarcated by an established hedge comprising of evergreen shrubs ' Viburnum tinus. The hedge has a pleasant softening effect on the public realm but does not fall within the scope of legislation under which it can be afforded formal legal protection.

There is a small ornamental tree, in the front garden, on the northern boundary adjacent to the highway. The tree is a poorly formed specimen and does not merit retention or formal legal protection by means of a tree preservation order.

Whilst the land to the west of the existing dwelling contains a few small trees none feature prominently in the public realm. The position of the proposed new dwelling and creation of a new vehicular access will not adversely affect any important trees or other significant vegetation on the application site.

There appears to be little need for, or public benefit to be gained from new soft landscaping associated with the proposed development of the land.

ECC Highways Dept
16.01.2024 (amended
comments following
additional information)

The documents accompanying the application have been duly considered and site visits have been undertaken. There are a number of outstanding issues that need to be addressed prior to the Highway Authority being able to consider the acceptability of the proposals.

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

1. As far as can be determined from the submitted plans the applicant does not appear to control sufficient land to provide the required vehicular visibility splays of 2.4 x 120m to the north and south of the B1029, Brightlingsea Road. The lack of such visibility would result in an unacceptable degree of hazard to all road users to the detriment of highway safety. This proposal would therefore be

contrary to the aims and objectives of policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Note:

The access does not appear to provide an adequate visibility splay for vehicles egressing onto the B1029, Brightlingsea Road, which is classified as a Main Distributor within Essex County Council Development Management Policies February 2011 Route Hierarchy. The function of a Main Distributor route is outlined as, 'the carrying of traffic safely and efficiently between major centres within the County'.

All new accesses and intensification of existing accesses must be designed and constructed in accordance with current standards.

The proposed access at Darmel Lodge lacks visibility and fails to meet established standards. In accordance with the signed speed limit, the proposed access must be provided with visibility splays of 2.4 metres by 120 metres in both directions, to accord with the Design Manual for Roads and Bridges (DMRB). The drawings submitted reveal insufficient splays of 2.4 metres x 40 metres in both directions which is far below what is required to the detriment of highway safety and efficiency.

The applicant may wish to conduct a speed survey in accordance with CA185 of DMRB to establish the 85th percentile speed of the road and provide visibility splays in accordance. Speed surveys should be taken at the extent of the achievable visibility splays. Clearly if the applicant does commission additional work there is no guarantee that the required standards can be met or that the proposal will be acceptable to the Highway Authority. Visibility must be achieved within highway and/or land of the applicant's control.

Consequently, the Highway Authority is unable to recommend approval until the applicant is able to provide a drawing demonstrating visibility splays that comply with current standards.

UU Open Spaces
15.11.2023

Public Realm Assessment

Play Space - current deficit:

- Deficit of 0.07 hectares of equipped play in Thorrington

Formal Play - current deficit:

- Deficit of 0.40 hectares of Open Space in Thorrington

Settlement provision:

- LEAP and Open Space provided Chapel Lane, Thorrington 1.3 miles from the proposed development

Officer Conclusions and Recommendations

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

- No contribution is being requested on this occasion, the provision is adequate to cope with some development

- Should the development increase in size a contribution maybe required.

Identified project*:

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

- None on this occasion

ECC Highways Dept
06.11.2023 (initial
comments)

Having reviewed the submitted information, I require additional information before being able to assess the acceptability of the planning application. With this in mind, I would be most grateful were you to ask the applicant to provide the following:

1. a scale drawing showing the full extent of the visibility splays (included within the redline area) proposed as well as all dimensions for the proposed site access. The splays should be based on the posted speed limit or the 85th percentile vehicle speed ascertained from a speed survey. Extent of highway should be coloured (see item 3 below)

2. The results of a speed survey if one is conducted to establish the required visibility

3. The results of a formal extent of highway search as sourced from <https://www.essexhighways.org/transport-and-roads/highway-schemes-anddevelopments/adoptions-and-land/highway-status-enquiries.aspx> (any problems with online payment/filling in the form the applicant should email highway.status@essexhighways.org who process the requests).

Environmental Protection
01.11.2023

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

Contaminated Land: Given the sites close proximity to registered, historic contaminated land, of which includes an historic landfill (prten37), and having consideration for its proximity to historical, agricultural land - 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 Activities: In order to minimise potential nuisance caused by demolition/construction works, Environmental Protection recommend that the following below is conditioned;

- 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 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.
- No materials produced as a result of the site development or clearance shall be burned on site.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. 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).

REASON: to protect the amenity of nearby residential premises

Lighting: Any lighting of the development should ensure it is located, designed and directed [or screened] so that it does not [cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/cause unnecessary light pollution outside the site boundary]. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers.

REASON: to protect the amenity of nearby residential premises

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

3. Planning History

N/A

4. Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

5. Neighbourhood Plans

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

There are no neighbourhood plans in place for this area.

6. Relevant Policies / Government Guidance

National:

National Planning Policy Framework (2023)

National Planning Policy Guidance (NPPG)

Local:

Tendring District Local Plan 2013-2033 and Beyond Section 1:

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP3 Spatial Strategy for North Essex

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2:

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports and Recreation Facilities

DI1 Infrastructure delivery and impact mitigation

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP8 Backland Development

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

7. Officer Appraisal

Site Description

The application site is land located to the rear of a number of properties to the rear (west) of Brightlingsea Road, within the parish of Thorrington. The site would be accessed via a new driveway adjacent to the north of 'Darmel Lodge' and to the south of 'Southaw'. The site is largely open land laid to grass, but includes four small outbuildings to its southern tip.

The site falls outside of a recognised Settlement Development Boundary, with the nearest being Thorrington approximately 575 metres to the north-east. The character of the area is relatively mixed, with built form sited adjacent to the north-east and south-west along Brightlingsea Road. The prevailing character along this stretch of Brightlingsea Road is that of single dwellings in spacious plots with decent rear gardens and occasional small, subordinate outbuildings in rear gardens. Sambeck Caravans is sited approximately 200 metres to the north. The land beyond, notably to the east and west becomes more rural in nature with large parcels of grassed and agricultural land.

Description of Proposal

This application seeks planning permission for the erection of one chalet bungalow, which would be sited to the rear of 'Bella Vista' and 'Southaw', and accessed via a new access point from Brightlingsea Road to the east.

Assessment

1. Principle of Development

Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements, although adds that development will be accommodated at sites adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area.

The site lies outside the Settlement Development Boundary (SDB) for Thorrington as designated within the adopted Local Plan. As such, the proposal by reason of the site's location is contrary to Policies SP1, SP3, SPL1 and SPL2 of the adopted Local Plan whereby the proposal fails to meet the sustainability aims and objectives of these policies in terms of achieving sustainable development by directing future housing growth to within the existing settlements. The Council presently has a healthy five year housing land supply resulting from the implementation of larger housing schemes approved for the district prior to the adoption of the current Local Plan whereby the plan policies contained within the current plan relating to housing growth and allocations are fully up to date. The proposal is therefore not acceptable in principle.

2. Backland Development

Paragraph 135 of the National Planning Policy Framework (2023) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

Adopted Policy SP7 of Section 1 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout that relates well to its site and surroundings, create a unique sense of place. Furthermore, Adopted Policy LP4 states the design and layout of new residential developments is expected to provide for amenity space of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of the dwelling and character of the area.

The development will result in the creation of one dwelling located to the rear of Bella Vista and Southaw along Brightlingsea Road, and therefore Officers consider that it constitutes a form of backland development.

The main problems that can arise as a result of backland development include undermining the established character of an area (especially if similar schemes were to be repeated elsewhere in a locality); dwelling plots appearing cramped relative to their surroundings; the fragmentation of established gardens with a loss of mature landscaping; and the infringement of neighbouring residents' amenities. Development behind an established building line can also appear incongruous, particularly with isolated dwellings. There must also be proper means of access to backland development, which is safe and convenient for both drivers and pedestrians, with a turning area where necessary to avoid the need for vehicles to reverse onto a public highway. A proposed access should avoid excessive disturbance or loss of privacy to neighbouring residents through, for example, an access drive passing unreasonably close to an adjoining dwelling. The likely frequency of use by vehicular traffic and the suitability of the access for service vehicles and the emergency services will also be relevant material considerations.

Of particular relevance in this instance is also Policy LP8 of the adopted Local Plan, which states that proposals for the residential development of backland sites must comply with the following criteria (officer assessment in italics):

a) where the development would involve the net loss of private amenity space serving an existing dwelling, that dwelling must be left with a sufficient area of private amenity space having regard to the standards in this Local Plan;

As stated above, to comply with adopted Policy LP4, the design and layout of new residential developments is expected to provide for amenity space of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of the dwelling and character of the area. The submitted plans confirm that there is sufficient private amenity space for the proposed dwelling, as well as for all existing property to the east along Brightlingsea Road (Darmel Lodge), and therefore complies with this criterion (and Policy LP4).

b) a safe and convenient means of vehicular and pedestrian access/egress must be provided that does not cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will not be permitted;

The dwelling is to be accessed via a new access point via Brightlingsea Road to the east (in-between Darmel Lodge and Southaw). However, the access will be both long (approximately 70 metres) and narrow (approximately 2.4 metres), thereby increasing the likelihood of vehicles generating higher speed and in turn noise disturbances to both Southaw and Darmel Lodge, thereby failing to adhere to this criterion. However, given the proposal is for one dwelling only, Officers do not consider that the vehicular movements themselves would be so significant that they in themselves would cause significant noise disturbances, and therefore this does not form part of the objection. However it is considered that the access would cause undue visual harm to the street scene and the character of the area because the proposed access widens out at the point where it meets Brightlingsea Road and will therefore be clearly visible. Such long and narrow accesses are not typical this rural area. This criterion is therefore not met because an inappropriate long and narrow driveway is clearly proposed.

c) the proposal must avoid "tandem" development using a shared access;

Whilst the proposal utilises a shared access, it does not represent a form of tandem development, and therefore this criterion is met.

d) the site must not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;

The site is not considered to comprise an irregular and awkward shape and will not prejudice a more appropriate comprehensive development solution, and therefore this criterion is met.

e) the site must not be on the edge of defined settlements where likely to produce a hard urban edge or other form of development out of character in its particular setting; and

The application site is not located on the edge of a defined settlement, and given that there are existing outbuildings on site, Sambeck Caravans sited to the north and a care home sited to the south, the proposal for one dwelling would not create a hard urban edge when viewed from the west. However, given that the main residential built form is distinctly running north to south along this section of Brightlingsea Road, on this occasion Officers consider a dwelling to the rear of this building line is out of character within this setting, thereby failing to meet this criterion.

f) the proposal must not be out of character with the area or set a harmful precedent for other similar forms of development.

This section of Brightlingsea Road has a relatively distinct prevailing character of residential properties running north to south fronting onto Brightlingsea Road, and against this context a dwelling sited to the rear of the existing building line does not conform with the areas existing prevailing character, and would instead appear as a harmful intrusion into the countryside. In addition, the proposed long and narrow access to serve one dwelling is also not in-keeping with the character of the area. Whilst Officers note there is a care home sited to the rear of the main building line, this is set significantly back and would not be viewed in the same context. This criterion is therefore not met.

3. Layout, Scale and Appearance

Paragraph 135 of the National Planning Policy Framework (NPPF) (2023) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

Adopted Policy SP7 of Section 1 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout that relates well to its site and surroundings, create a unique sense of place.

The proposal will see the erection of one dwelling to the rear of the existing dwellings, and is proposed to be of a chalet bungalow style. The properties sited along Brightlingsea Road are typically of a single storey or 1.5 storey nature, and in that context the scale proposed is in-keeping with the character of the area.

With respect to the proposed design, Officers do have some concerns, notably with the incongruous fenestration layout and overall appearance of the front elevation, however overall do acknowledge the dwelling includes features such as dormers, Juliet balcony and good use of materials that help to break up its overall bulk. Given this, whilst it is not considered the dwelling is of a particularly good design, the harm identified is to a limited extent and does not justify recommending a reason for refusal on this basis.

4. Impact to Neighbouring Amenities

Paragraph 135 of the National Planning Policy Framework (2023) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

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

Notwithstanding the impacts identified above in relation to the noise disturbances to Darmel Lodge and Southaw via the long and narrow access, it is noted that the proposed dwelling is sited a

significant separation distance from all surrounding properties to ensure it would not appear oppressive. While some concerns are raised with the dwelling being approximately 2.8 metres to the rear boundary of Bella Vista and Southaw, given there is an overall separation distance of approximately 30 metres and that the dwelling is 1.5 storey with a hipped roof to the side elevation (and no first floor windows), on balance the harm identified is not considered so significant that it could form a reason for refusal.

Furthermore, there is a Juliet balcony to the rear elevation that will have some views to the rear garden area of Maple Cottage, however these would not be to a significant extent and in any case would be to the furthest rear section of the garden, an area less likely to be regularly used. As such, on balance, the harm identified is not significant enough to warrant a refusal reason.

5. Impact to Trees

The Council's Tree and Landscapes Officer has been consulted and has stated the following:

"The front garden of the application site is demarcated by an established hedge comprising of evergreen shrubs ' Viburnum tinus. The hedge has a pleasant softening effect on the public realm but does not fall within the scope of legislation under which it can be afforded formal legal protection.

There is a small ornamental tree, in the front garden, on the northern boundary adjacent to the highway. The tree is a poorly formed specimen and does not merit retention or formal legal protection by means of a tree preservation order.

Whilst the land to the west of the existing dwelling contains a few small trees none feature prominently in the public realm. The position of the proposed new dwelling and creation of a new vehicular access will not adversely affect any important trees or other significant vegetation on the application site.

There appears to be little need for, or public benefit to be gained from new soft landscaping associated with the proposed development of the land."

Given the above comments, no objections are raised by Officers in regard to the impacts of the development to existing trees on site.

6. Highway Safety

Paragraph 114 of the National Planning Policy Framework (2023) seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 115 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy SPL3 (Part B) of the Adopted Local Plan 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.

Adopted Policy CP1 (Sustainable Transport and Accessibility) 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.

Essex Highways Authority have been consulted on the application, and have confirmed that from a highway and transportation perspective the impact of the proposal is not acceptable, as it has not been adequately demonstrated that the application controls sufficient land to provide the required vehicular visibility splays of 2.4m x 120m to the north and south of the proposed access. However, while these comments are noted, on this occasion Officers consider that there are inconclusive evidence to conclude that the visibility splays looking both north and south of the access point will extend over private land and therefore result in potential to be obstructed. Having regard to the submitted plans officers believe that the required visibility splays can be met. Accordingly, it is not

considered that an objection on these grounds could be successfully defended at any future appeal, and therefore no objections are raised.

Furthermore, the Essex County Council Parking Standards set out the parking requirements for new development and confirm that for residential properties of two bedrooms or more there should be provision for two parking spaces measuring a minimum of 5.5 metres x 2.9 metres or, if being used as one of the parking spaces, a garage should measure a minimum of 7 metres x 3 metres. The submission demonstrates that sufficient parking provision is allowed for.

7. Drainage

Paragraph 180 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 191 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

Policy PPL5 of Section 2 of the adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.

The agent for the application has confirmed on the application form that the development would be connected to the existing public foul sewer. This is in accordance with the above policy requirements and is therefore considered to be acceptable in the event of an approval.

8. Renewable Energy

Paragraph 116 of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. However, recent UK Government announcements that ULEV charging points will become mandatory for new development have yet to be published.

Policies PPL10 and SPL3, together, require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.

The proposal includes for a development that has the potential to incorporate renewable energy features. There are no details that accompany the planning application that demonstrate the water, energy and resource efficiency measures that the scheme will incorporate, and a condition requesting details can be included in the event that the scheme is recommended for approval.

9. Financial Contributions - Open Space and RAMS

(i) Open Space

Paragraph 55 of the National Planning Policy Framework (2021) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 57 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

Section 2 Policy HP5 states that the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update. Financial contributions will also be

sought through s106 legal agreements (or an appropriate alternative mechanism) towards ongoing maintenance.

In line with the requirements of Section 2 Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that there is a deficit of 0.07 hectares of equipped play in the Thorrington area and 0.40 hectares of Open Space formal play provision, however no contribution is being requested on this occasion.

(ii) Habitat Regulations Assessment

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

The application scheme proposes a residential on a site that lies within the Zone of Influence (Zol) but is approximately 0.6 metres from the Colne Estuary Ramsar and SPA and 0.6 metres away from Essex Estuaries SAC. New housing development within the Zol would be likely to increase the number of recreational visitors to these sites and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A completed unilateral undertaking has not been provided to secure this legal obligation. As submitted, there is no certainty that the development would not adversely affect the integrity of European Designated Sites and the application is therefore contrary to Policy PPL4 of the Adopted Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Other Considerations

Thorrington Parish Council has not provided any comments on the application.

There have been two letters of objection received, stating the following concerns:

1. Impact to trees;
2. Concern the site is contaminated;
3. Impact to character of the area; and
4. Impact to neighbouring amenities.

In answer to this, points 1, 3 and 4 are addressed within the main body of the report. In response to point 2 the Council's Environmental Protection team have been consulted and in the event of the application being supported they have requested a condition be included to request a Phase 1 Contamination Report in order to identify any potential contamination issues.

Conclusion

The proposal would see the erection of one dwelling on land sited to the rear of Bella Vista and Southaw, to the rear of Brightlingsea Road and well behind the prevailing build form along Brightlingsea Road. The site also falls far outside of a recognised Settlement Development Boundary and also represents a harmful form of backland development with a long and narrow driveway, which also appears out of character with the surrounding area. In addition, the long and narrow access/driveway will result in harm to the prevailing character of the area and the streetscene.

The above notwithstanding, no concerns are raised with regards to amenity space, parking provision or impact to trees on site. ECC Highways have raised an objection due to it not being demonstrated that there would be sufficient visibility splays within the applicants ownership, however Officers consider that there is clear and unobstructed visibility and therefore do not agree with this assessment. Furthermore, on balance, the design and scale of the dwelling is considered to be

acceptable. These elements are neutral in the planning balance and the limited economic benefits (construction, economic spend and one additional dwelling being added to the councils five year housing supply) that will stem from this proposal are given limited weight collectively, and will not outweigh the clear harmful effects as identified.

The application is therefore recommended for refusal for the following reasons:

8. Recommendation

Refusal.

9. Reasons for Refusal

- 1 Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements, although adds that development will be accommodated at sites adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area.

The site lies outside the Settlement Development Boundary (SDB) for Thorrington as designated within the adopted Local Plan. As such, the proposal by reason of the site's location is contrary to Policies SP1, SP3, SPL1 and SPL2 of the adopted Local Plan whereby the proposal fails to meet the sustainability aims and objectives of these policies in terms of achieving sustainable development by directing future housing growth to within the existing settlements. The site is therefore not suitable for new housing and the Council presently has a healthy five year housing land supply resulting from the implementation of larger housing schemes approved for the district prior to the adoption of the current Local Plan whereby the plan policies contained within the current plan relating to housing growth and allocations are up to date.

- 2 Paragraph 135 of the National Planning Policy Framework 2023 (NPPF) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

Adopted Policy SP7 of Section 1 of the 2013-33 Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout that relates well to its site and surroundings, create a unique sense of place. Policy LP8 (b) states that proposals for the residential development of backland sites must include a safe and convenient means of vehicular and pedestrian access/egress that does not cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene, and long or narrow driveways will not be permitted. Criterion (e) and (f) state that proposals must not be out of character with the area or set a harmful precedent for other similar forms of development.

The dwelling is to be accessed via a new 70m long access point from Brightlingsea Road to the east (in-between Darmel Lodge and Southaw). This section of Brightlingsea Road has a distinct prevailing character consisting of residential properties running north to south fronting onto Brightlingsea Road, and against this context a dwelling sited clearly to the rear of the existing building line would not conform with the areas prevailing character, and would instead appear as a harmful intrusion into the countryside. Moreover, the proposed lengthy access road designed to serve a single dwelling is incongruent with the surrounding area's character. This is particularly evident where the access road widens upon intersecting with Brightlingsea Road, creating an overly intrusive and discordant feature that detracts from the area's established ambiance and visual coherence.

There proposal is therefore contrary to paragraph 135 of the NPPF and the above mentioned Local Plan Policies.

10. Informatives

Positive and Proactive Statement:

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

Plans and Supporting Documents:

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

Drawing Numbers 700/0S, BC/1235/2, BC/1235/3, BC/1235/5 and the document titled 'Design and Access Statement'.

11. 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.

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 (As known with application)
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