

PLANNING STATEMENT

**LAND TO THE EAST OF 2 CRABTREE COTTAGES,
LITTLE BENTLEY, COLCHESTER, CO7 8RU**

PREPARED ON BEHALF OF THE APPLICANT

**TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)
PLANNING AND COMPULSORY PURCHASE ACT 2004**

STATEMENT WRITTEN BY:

Jonathan Brown LLB LLM MA MRTPI
Chartered Town Planner
Solicitor (non-practising)

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1. INTRODUCTION

- 1.1 This Statement has been prepared on behalf of the Applicant in support of the following development:

"Erection of 2no. dwellings"

- 1.2 This Statement sets out the planning rationale to justify the proposed development in accordance with local and national planning policy.

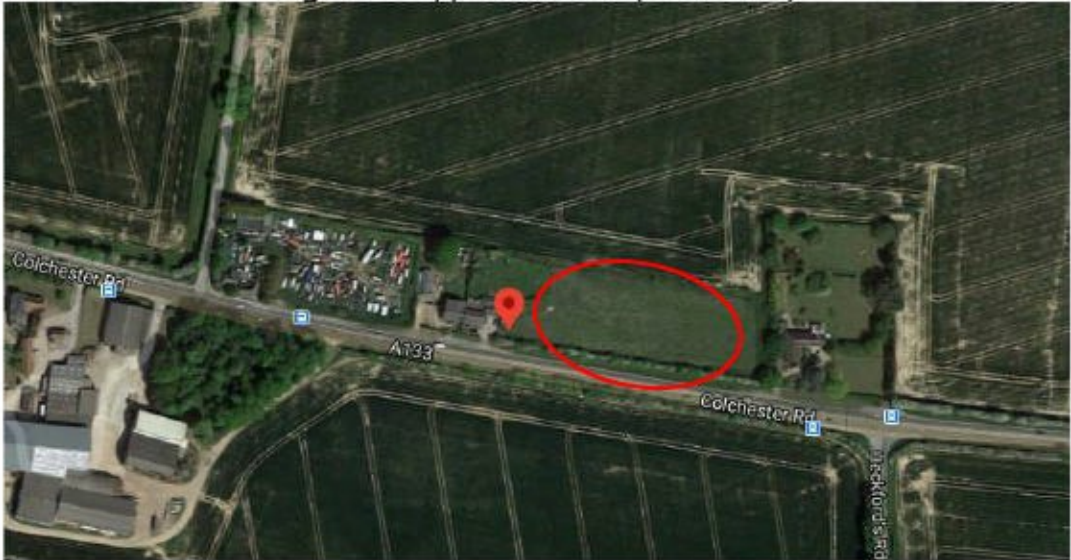
Report Structure

- 1.3 Section 2 of this Statement provides a description of the site and surrounding area; section 3 provides a summary of the relevant planning history; section 4 describes the proposed development; section 5 outlines the planning policy context; section 6 sets out the planning assessment; and section 7 provides a conclusion.

2. SITE AND SURROUNDINGS

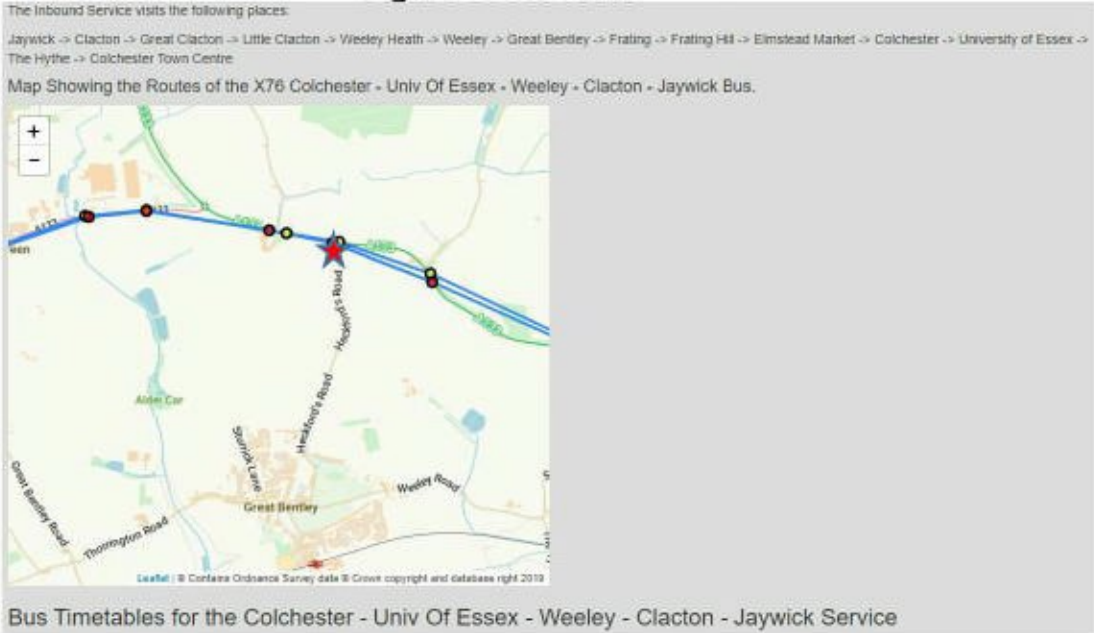
2.1 The site is located between the properties known as 2 Crabtree Cottages (to the west) and Ellingtons (to the east) and is adjacent to the A133. The site currently forms a disused grass field.

Figure 1: Application Site (circled red)



2.2 Directly to the east and west of the Site, are bus stops which provide regular access to Colchester and Clacton. Figure 2 below provides an extract of the current bus stops adjacent to the Site. The Site is marked by a red star on Figure 2.

Figure 2: Bus route



- 2.3 The public transport mentioned above provides regular access to Great Bentley which is approximately 1.5KM away and can also be easily reached on foot or by bicycle. Great Bentley benefits from, amongst other amenities, a train station, post office, GP surgery, village hall, public house, restaurants/bars, Great Bentley Garage and other vehicle repair businesses, public open space (Great Bentley Playpark) pharmacy, primary school, Tesco Express and other retail businesses.
- 2.4 Approximately 0.5KM to the east of the Site is a petrol station that also offers a range of essential household products that can be readily reached by foot and bicycle.

Figure 3: *Petrol Station 0.5Km from the Site*



- 2.5 The site is located in Flood Zone 1 (lowest probability of flooding) and is not subject to any statutory heritage designations.
- 2.6 There is no relevant planning history to disclose pertaining to the Site.

3. PROPOSED DEVELOPMENT

- 3.1 This Statement has been prepared on behalf of the Applicant in support of the following development:

"Erection of 2no. dwellings"

- 3.2 Plans are provided that demonstrate the proposal can comply with design policy requirements and will protect the amenity of both future occupiers and existing occupiers of nearby dwellings.

Scale and Appearance

- 3.3 The proposed plans show 2no. detached two storey dwellings of a modest scale within the context of the surrounding area, which is in keeping with Crabtree Cottages to the west and Ellingtons to the east. Crabtree Cottages (Nos. 2 and 3) are shown below to provide an indication of the existing character and appearance of the surroundings.

Figure 4: *Crabtree Cottages*



- 3.4 The proposed development would use heritage blend facing brick to compliment the brick used in the construction of Crabtree Cottages whilst also using light grey fibre cement weatherboarding to give a light wooden effect to the top half of the property so as to compliment the rural surroundings.
- 3.5 To the rear of the proposed development, looking down the field, large open windows and glass doors will be constructed to allow future occupants to enjoy the rural landscape the development backs on to.

- 3.6 The proposed development is very much similar in scale to a recent application (20/00671/FUL) in the locality which is located under 2.5KM West of the Site which the Council deemed to be acceptable in terms of scale and appearance.

Figure 5: Example of similar scale development approved in the locality (20/00671/FUL)



- 3.7 Planning permission was also granted in 2016 (ref. 16/00623/FUL) at Crabtree Cottage to the west of the Site for a new detached dwelling, outbuilding and vehicular access (to replace existing cottage).

Figure 6: Dwelling approved in 2016 at Crabtree Cottage (ref. 16/00623/FUL)



- 3.8 The design principles reflected within the accompanying plans and outlined above, with regards to scale and appearance, therefore comply with Policy QL9 which

seeks to ensure that new development makes a positive contribution to the quality of the local environment and protect or enhance local character.

- 3.9 Similarly, Policy QL11 seeks to ensure that new development is compatible with surrounding land uses and minimises any adverse environmental impacts. Development will only be permitted if the following criteria are met the scale and nature of the development is appropriate to the locality, which the above examples demonstrate that it is.
- 3.10 In addition, Policy QL11 seeks to ensure that new development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. The new dwellings will benefit from generously sized plots with spaces in between the proposed and existing dwellings over 30 metres, ensuring there will be no adverse impact on the amenity of existing and future occupiers.

Layout

- 3.11 The proposed site layout allows the two dwellings to utilise the current access enjoyed by 2 Crabtree Cottages. Ample vehicle turning space and car parking spaces have been provided for with cars able to turn in the private drive of each proposed dwelling or in a turning space to the far West of the Site.
- 3.12 The dwellings are positioned adjacent to each other and the public highway, in keeping with the character of the neighbouring developments. The private amenity space for each dwelling is located to the north of each dwelling so as to benefit from the rural landscape views to the north.
- 3.13 The layout therefore ensures the most effective use of the land is achieved, which also ensures a high standard of design and amenity for future occupiers, therefore complying with Policy QL11 and QL10 which supports new development that meets functional requirements.

Landscaping

- 3.14 Considering the greenfield nature of the site, there will be limited additional landscaping, with the existing grassed areas providing attractive amenity space.

- 3.15 The dwellings will be separated by wooden fences and the driveway will require hardstanding, the details of which can be reserved by condition if the Council consider this acceptable in principle.

Access

- 3.16 As stated above, the proposed development will use the current access enjoyed by 2 Crabtree Cottages, as shown by Figure 6 below.

Figure 6: Existing Vehicular Access



- 3.17 The access comfortably adheres to the Highways requirements, with clear visibility splays in excess of the minimum height of 0.6 metres above the carriageway and 2.4 metres from the nearside carriageway edge, with clear visibility over 200 metres in each direction.

4. PLANNING POLICY FRAMEWORK

- 4.1 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Planning Applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 4.2 In this instance the Development Plan comprises the adopted Tendring District Local Plan (2007), however as noted below these policies should be attributed limited weight.
- 4.3 Material considerations include the National Planning Policy Framework (February 2019) (the "NPPF"); National Planning Practice Guidance; and the emerging Local Plan – 'Tendring District Local Plan 2013-2033 and Beyond Publication Draft'.
- 4.4 The most relevant policies from the documents highlighted above are summarised below:

National Planning Policy Framework (2019)

- 4.5 *Paragraph 8* – Achieving sustainable development means that the planning system has three overarching objectives: a) economic, to help build a strong, responsive and competitive economy; b) social, to support strong, vibrant and healthy communities; and c) environmental, to contribute to protecting and enhancing our natural, built and historic environment.
- 4.6 *Paragraph 11* - Plans and decisions should apply a presumption in favour of sustainable development. Strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses. Where development plan policies are out of date, including where the Council cannot demonstrate a five year supply of deliverable housing sites, planning permission should be granted unless:
- i) there is a clear reason for refusal to protect areas or assets of particular importance; or
 - ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against other policies within the NPPF.

- 4.7 *Paragraph 38* - Planning decisions should be approached in a positive and creative way. Decision makers at every level should seek to approve applications for sustainable development where possible.
- 4.8 *Paragraph 48* - Local planning authorities should give weight to relevant policies in emerging plans, according to:
- a) the stage of preparation (the more advanced in its preparation, the greater weight can be given);
 - b) the extent of unresolved objections to relevant policies; and
 - c) the degree of consistency of relevant policies to those within the NPPF.
- 4.9 *Paragraph 68* - Small and medium sized sites can make an important contribution to meeting the housing requirement and are often built-out relatively quickly.
- 4.10 *Paragraph 73* - Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing.
- 4.11 *Paragraph 74* - A five year supply of deliverable housing sites can be demonstrated where it has been established in a recently adopted plan, or in a subsequent annual position statement which has been considered by the Secretary of State.
- 4.12 *Paragraph 103* - Development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Opportunities to maximise sustainable transport solutions will vary between urban and rural areas, which should be taken into account in decision making.
- 4.13 *Paragraph 117* - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.



Tendring District Local Plan (2007)

- 4.14 **Policy QL1 – Spatial Strategy** – This policy sets out the main focus for new sustainable patterns of development, concentrating development at existing larger towns and promoting sustainable economic growth. It provides for limited development consistent with local community needs within the smaller towns and villages.
- 4.15 **Policy QL9 – Design of New Development** - All new development should make a positive contribution to the quality of the local environment and protect or enhance local character.
- 4.16 **Policy QL10 – Designing New Development to Meet Functional Needs** - All new development should meet functional requirements.
- 4.17 **Policy QL11 – Environmental Impacts and Compatibility of Uses** - All new development should be compatible with surrounding land uses and minimise any adverse environmental impacts. Development will only be permitted if the following criteria are met:
- i. the scale and nature of the development is appropriate to the locality;
 - ii. the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties;
 - iii. the development will not lead to material loss or damage to important environmental assets such as buildings of architectural interest, the historic environment, water courses, important archaeological sites and monuments and areas of conservation, recreation, ecological or landscape value;
 - iv. the development, including any additional road traffic arising, will not have a materially damaging impact on air, land, water (including ground water), amenity, health or safety through noise, smell, dust, light, heat, vibration, fumes or other forms of pollution or nuisance; and

- v. the health, safety or amenity of any occupants or users of the proposed development will not be materially harmed by any pollution from an existing or committed use.

4.18 **Policy HG3 – Residential Development within Defined Settlements** - Proposals for development of infill plots should ensure that the scale, design and intensity of any new building are in harmony with existing surrounding development.

4.19 *Paragraph 4.35* - residential "infilling", that is the filling of a small gap in an otherwise built-up frontage, should not appear cramped or otherwise incongruous and out of character in the street scene.

4.20 **Policy HG9 – Private Amenity Space** – For houses with three or more bedrooms, a minimum of 100sqm private amenity space should be provided.

Tendring District Local Plan 2013-2033 and Beyond Publication Draft

4.21 The emerging policies carry limited weight, but the relevant policies to this proposal are listed below:

- Policy LP1 Housing Supply
- Policy LP3 Housing Density and Standards
- Policy LP4 Housing Layout
- Policy PPL3 The Rural Landscape
- Policy PPL4 Biodiversity and Geodiversity
- Policy SPL1 Managing Growth
- Policy SPL3 Sustainable Design

5. ASSESSMENT

Principle of Development

- 5.1 The Council have recently acknowledged that they cannot demonstrate a five year supply of housing, however sought to mitigate this by suggesting that the calculation using the standard method prescribed by the NPPF produces a lower figure. However, this situation is subject to change and the application can only reasonably be based on known facts.
- 5.2 With reference to the weight attributed to the Council's emerging policies, following a Public Inquiry (ref. APP/P1560/W/18/3201067) the Inspector noted in the Decision dated 23rd October 2019: "*The Examining Inspector (EI) has found the spatial strategy for the eLP unsound and indicated that significant changes by way of new evidence, alterations or withdrawal would be required and the authorities are undertaking further work. The weight I attach to conflict with eLP Policies SPL1 and SPL2 is very limited*" (para. 70).
- 5.1 Overall, the out-of-date Development Plan policies and lack of a five year supply provides a strong basis for concluding that the presumption in favour of sustainable development within paragraph 11 of the NPPF should fully apply.
- 5.2 In order to demonstrate that the proposal represents sustainable development, as defined within the NPPF, it should meet the three overarching objectives set out within paragraph 8 of the NPPF, namely: economic, social and environmental.

Economic

- 5.3 The construction of 2no. dwellings would invariably assist the local economy in terms of labour opportunities and demand for supplies and materials in the actual construction of the properties and so there would be some limited economic benefit.
- 5.4 In addition, paragraph 68 of the NPPF should be noted which states that small and medium sized sites can make an important contribution to meeting the housing requirement and are often built-out relatively quickly.

Social

- 5.5 As mentioned above, the Council's settlement boundary policies are considered out-of-date and should be afforded limited weight. When the local policies are deemed out-of-date, under paragraph 11 of the NPPF planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
- 5.6 There are bus stops either adjacent to, or within, 50 metres of the Site. During the weekdays between the hours 08:18-19:59, there is a regular bus service operating twice an hour that runs to Colchester (one of the largest towns in Essex), University of Essex, Weeley, Clacton and Jaywick.

Figure 7: Regular Bus Service (Colchester)

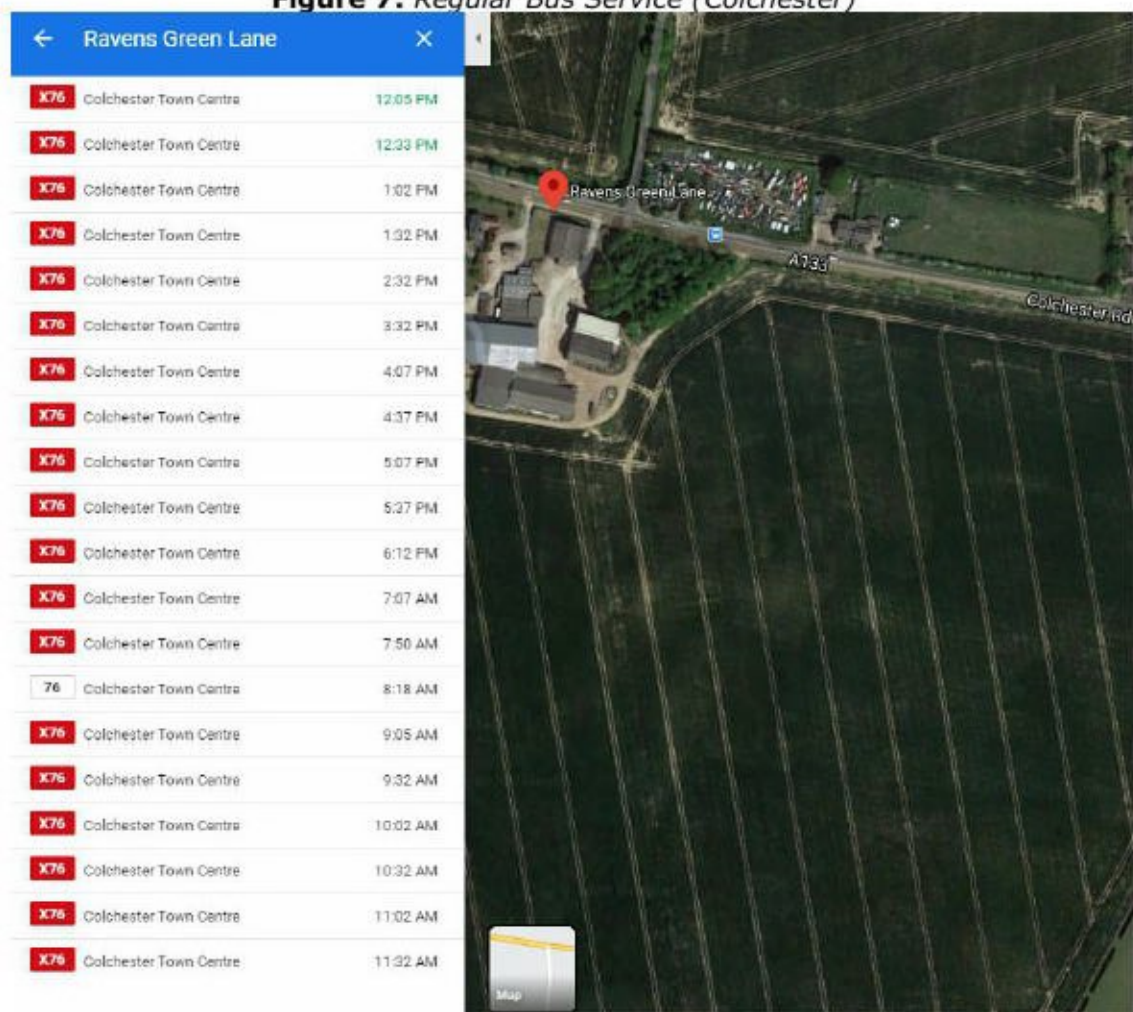
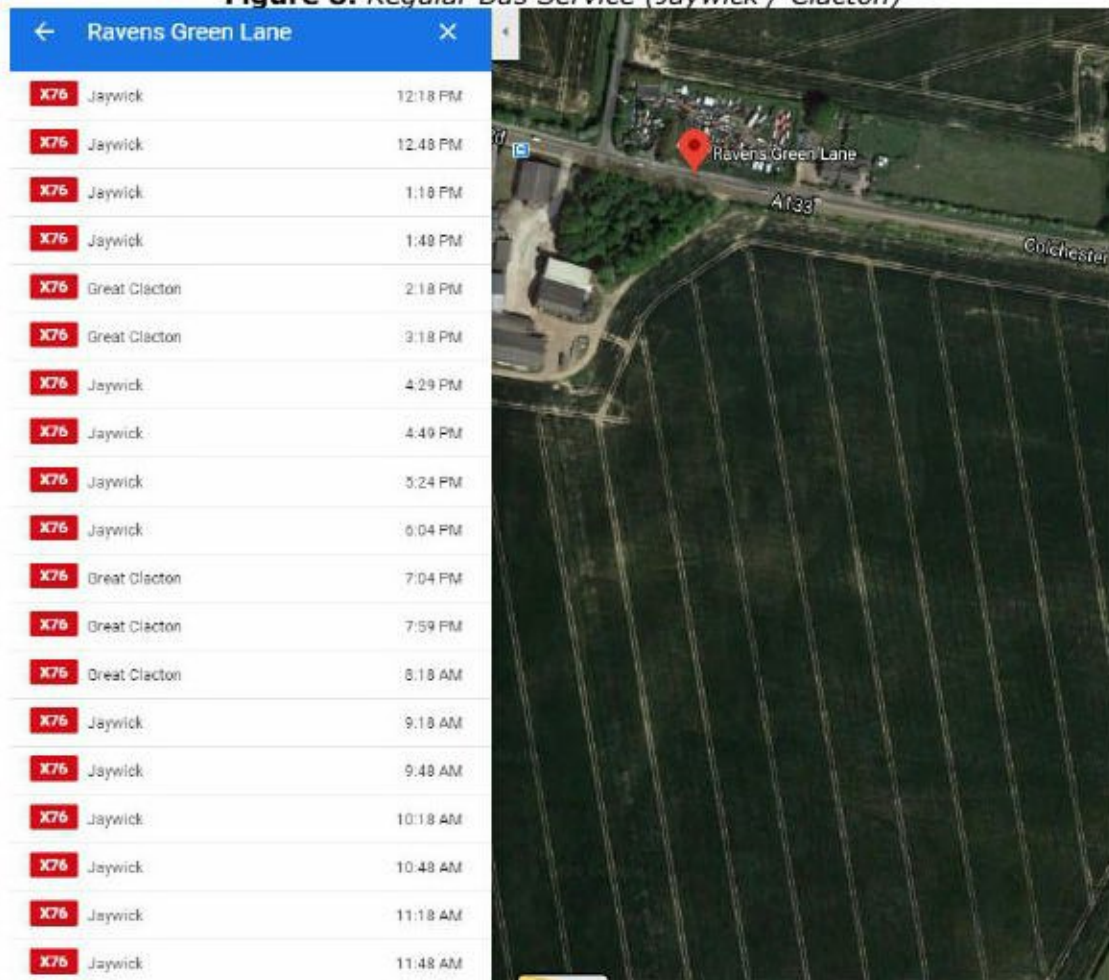


Figure 8: Regular Bus Service (Jaywick / Clacton)

5.7 There are numerous nearby services and amenities within walking distance, with good public transport links to the wider area, in particular Colchester. Even if it is found that there will be a limited reliance on travel by vehicle for some journeys, this is not necessarily a reason to refuse the application and should only be considered as one of a number of factors to determine whether the social objective of the NPPF has been met.

5.8 This approach is reflected within a recent Appeal Decision (ref. APP/P1560/W/18/3195462, see Appendix 1) relating to a site at Balls Green, where the Inspector concluded at paragraph 7:

"Turning to car-borne journeys, it is accepted that Balls Green and Frating do not provide the services and facilities that would be required for normal day to day living. It is inevitable that occupiers of the dwellings would rely

on the private car to access basic services. However, the site is very close to a bus stop on the junction Chapel Lane which serves Colchester, Saint Osyth and Harwich. While other bus stops at Frating are further afield, they are nonetheless within walking distance of the site and accessible by a public footpath. As a result, and taking into account the proximity of public transport to the site, I am of the view that the proposal would not lead to significant harm in this regard”.

- 5.9 Similarly, in an Appeal at a site in Thorrington (ref. APP/P1560/W/18/3216163 at Appendix 2) which was 0.4 miles from a nearby settlement and associated services and facilities, the Inspector noted at paragraph 6 that the site was:

“...around 1 mile to Brightlingsea, with a large range of amenities, which although a longer walk is within a reasonable distance for pedestrians and cyclists. In any event, buses to Brightlingsea as well as to Colchester and Clacton-on-Sea can be accessed from bus stops close-by”. The Inspector also noted at paragraph 7 that: “some reliance on car use acceptable, in combination with forms of sustainable travel such as on foot, by cycle and by bus which would be reasonably practicable in this case”.

- 5.10 In an Appeal Decision at Stones Green Road (ref. APP/P1560/W/16/3165144 at Appendix 3), the Inspector stated at paragraph 11:

“...whilst there are no services and facilities which would meet the everyday needs of future residents within walking distance of the site, bus stops are located close to the site on Heath Road. The stops offer access to regular bus services to Colchester, Clacton-on-Sea and other towns. Those settlements offer a wide range of facilities and services which would meet the day-to-day needs of residents. Regular and readily accessible bus services in close proximity to the appeal site would therefore encourage future residents to use public transport to meet their needs for basic provisions”.

- 5.11 Notwithstanding the above cases, even if it is considered that there is limited accessibility and there would be a reliance on travel by vehicle, paragraph 11 of the NPPF states that planning permission should be granted unless the adverse

impacts of the proposal would significantly and demonstrably outweigh its benefit when assessed against the policies within the Framework taken as a whole. This approach was followed within the Appeal Decisions at Appendix 4 (ref. APP/P1560/W/18/3218389), where a reliance on travel by vehicle was not sufficient to outweigh the proposed benefits of the proposed development.

- 5.12 Paragraph 103 of the NPPF recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. This is reflected within the accompanying Appeal Decision (ref. APP/P1560/W/19/3220705, see Appendix 5) where the Inspector stated: *"In the rural location of the appeal site I consider some reliance on car use acceptable, in combination with forms of sustainable travel such as on foot and by cycle which would be reasonably practicable in this case"* (paragraph 8).
- 5.13 Overall, there is a significant body of Appeal Decisions which have provided a detailed insight into the correct context for assessing the sustainability credentials in locations such as this and the surrounding area. The access to local services and amenities, by bus, provide sufficient reason to conclude that the social objective of the NPPF has been fulfilled.

Environmental

- 5.14 The development continues a line of existing dwellings and would therefore not appear incongruous in the context of the surrounding development pattern. Whilst, it has already been submitted that the current Local Plan should be given limited weight, reference is made to Policy HG3 with regard to infilling.
- 5.15 Whilst this policy is not directly applicable to the Site (given it is not within a 'Defined Settlement'), Policy HG3 does note that infill plots will be appropriate where the scale, design and intensity of any new building are in harmony with existing surrounding development. In the current case, the proposed development would represent an infill site between Crabtree Cottages and Ellingtons which, for the reasons stated above, are in keeping with both of these adjoining developments.

6. CONCLUSION

- 6.1 This Statement has been prepared in support of an outline planning application for the erection of 2no. dwellings.
- 6.2 The Council cannot demonstrate a five year housing land supply and the relevant development plan policies should be considered out of date. Therefore, under paragraph 11 of the NPPF planning permission should be granted any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.3 In our submission, the site is in a sustainable location with bus stops providing access to the surrounding area. The proposal therefore fulfils the social objective of the NPPF and complies with saved Policy QL1 of the adopted Local Plan and emerging Policy SPL1.
- 6.4 Paragraph 38 of the NPPF encourages a positive and creative approach to decision making and we hope that the above statement has effectively demonstrated that this site offers a positive opportunity to provide an important contribution to the housing supply at a sustainable location.
- 6.5 This Statement sets out the planning rationale that underpins the proposed development and demonstrates its acceptability in planning terms.

Appendix 1: APP/P1560/W/18/3195462





Appeal Decision

Site visit made on 8 May 2018

by **Graham Wyatt BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21st June 2018

Appeal Ref: APP/P1560/W/18/3195462

Land at Frating Road, Balls Green, Great Bromley, Essex CO7 7JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by T J & R A Chalmers against the decision of Tendring District Council.
 - The application Ref 17/01020/OUT, dated 19 June 2017, was refused by notice dated 16 August 2017.
 - The development proposed is an outline application for up to 2 No. dwellings.
-

Decision

1. The appeal is allowed and outline planning permission is granted for 2 No. dwellings at Land at Frating Road, Balls Green, Great Bromley, Essex CO7 7JU. Permission is granted in accordance with the terms of the application, Ref17/01020/OUT, dated 19 June 2017, subject to the following conditions:
 - 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
 - 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
 - 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 358/01, 0348-01 and untitled Site Location Plan, but only in respect of those matters not reserved for later approval.

Preliminary Matters

2. The planning application was in outline form with all matters reserved for future consideration. The appellant has provided an indicative layout which I have treated as illustrative for the purposes of this appeal.
3. The Council refer to Policy SPL1 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft June 2017 (the emerging Local Plan) in its reason for refusal. The emerging Local Plan was examined in January 2018 and the

Inspector's report is awaited. Consequently, the emerging Local Plan has yet to be found sound and formally adopted. Therefore, in accordance with paragraph 216 of the National Planning Policy Framework (the Framework), I afford the policies within the emerging Local Plan limited weight in my decision.

Main Issue

4. The main issue is whether the site is an appropriate location for the development having regard to the development plan and national planning policy.

Reasons

5. The appeal site lies beyond the settlement development boundary for Frating. Saved Policy QL1 of the Tendring District Local Plan 2007 (the Local Plan) states that development outside of settlement development boundaries will only be permitted where it is consistent with the Council's countryside policies. In this particular case, the appellant does not forward such an argument and the development would therefore be in conflict with Policy QL1 of the Local Plan.
6. The supporting text to Policy QL1 of the Local Plan states that its aim is to protect the countryside from encroachment and to reduce car-borne journeys. The site lies adjacent to existing residential development and the proposal would not be seen as an isolated or sporadic development within the countryside. Moreover, in considering the illustrative plans, the Council accept that the development would not result in an overly cramped development that would be of a detriment to the rural character of the area. Moreover, it is expected that the proposed dwellings would also be in-keeping with the semi-rural character of the area. From my own observations, I am satisfied that the development would have an acceptable impact on the character and appearance of the area and would not give the impression that it has encroached into the countryside.
7. Turning to car-borne journeys, it is accepted that Balls Green and Frating do not provide the services and facilities that would be required for normal day to day living. It is inevitable that occupiers of the dwellings would rely on the private car to access basic services. However, the site is very close to a bus stop on the junction Chapel Lane which serves Colchester, Saint Osyth and Harwich. While other bus stops at Frating are further afield, they are nonetheless within walking distance of the site and accessible by a public footpath. As a result, and taking into account the proximity of public transport to the site, I am of the view that the proposal would not lead to significant harm in this regard.
8. Paragraph 17 of the Framework states that it is a core principle of the planning system that it should be genuinely plan-led and I have considered the Council's concern that the development would undermine its ability to manage growth through a plan-led approach. However, no substantive evidence from the Council of how the proposal would undermine this aim has been provided. Moreover, although the development would only provide a very small addition to the delivery of housing in the District, it nonetheless adheres with the general thrust of the Framework in seeking to boost the supply of housing.

9. Therefore, in the absence of any identified harm from the proposal, I consider that the development would constitute sustainable development as set out in the Framework, for which there is a presumption in favour. I am of the view that this material consideration is sufficient to outweigh the very limited conflict with Policy QL1 of the Local Plan in this case.

Other Matters

10. The planning system is concerned with land use in the public interest. The impact on property value is a private interest and is not therefore material to the determination of the appeal. Concerns have also been raised on highway safety grounds. I note from the Officer's delegated report that the Local Highway Authority (LHA) requested a plan detailing appropriate visibility splays for the access into the site. These were provided and the LHA do not raise any objection to the development. From my site visit, I see no reason to disagree with the LHA.
11. The matter of housing land supply has been raised by the parties. However, I have found that the proposal is sustainable in its own right, which in this case outweighs the identified development plan conflict. As a result, whether the Council can or cannot demonstrate a five year housing land supply has not had a bearing on my decision.

Conditions

12. The Council have suggested a number of conditions which I have considered in accordance with the advice contained within the Planning Practice Guidance and the Framework. In addition to the outline implementation conditions, it is necessary for certainty, to define the plans with which the scheme should accord.
13. Matters relating to the access, layout and landscaping are reserved for future consideration. Thus, it is not necessary to condition these matters at the outline stage.

Conclusion

14. For the reasons given above, and having regard to the development plan when read as whole and other material considerations, particularly the Framework, I conclude that the appeal should be allowed.

Graham Wyatt

INSPECTOR

Appendix 2: APP/P1560/W/18/3216163



Appeal Decision

Site visit made on 3 May 2019

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 18th July 2019

Appeal Ref: APP/P1560/W/18/3216163

Sambeck Caravans, Woodlands Business Park, Tenpenny Hill, Thorrington CO7 8JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Sambeck Caravans against the decision of Tendring District Council.
 - The application Ref 18/00466/OUT, dated 8 March 2018, was refused by notice dated 15 May 2018.
 - The development proposed is two dwellings.
-

Decision

1. The appeal is allowed and planning permission is granted for two dwellings at Sambeck Caravans, Woodlands Business Park, Tenpenny Hill, Thorrington CO7 8JD in accordance with the terms of the application, Ref 18/00466/OUT, dated 8 March 2018, and the plan submitted with it, subject to the following conditions:
 - 1) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
 - 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

Procedural Matters

2. This is an outline application with all matters reserved.
3. An emerging plan, the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017), is currently under examination. It is not part of the adopted development plan. As it is not clear the extent to which any objections to its policies are unresolved or the extent to which its policies are consistent with National Planning Policy Framework (the Framework), I give them limited weight and they do not alter my conclusions.

Main Issues

4. The main issues in this appeal are:

- whether the proposed development would be suitably located; and
- the effect of the proposed development on the character and appearance of the area.

Reasons

Location

5. The proposed dwellings would be located on land within the Woodlands Business Park, the site of former gravel workings, which includes a range of built form to the west of Brightlingsea Road. The Council acknowledges that the new dwellings would not constitute isolated homes in the countryside for the purposes of the Framework, or indeed that the land is open countryside.
6. The appeal site is around 0.4 miles from the Thorrington settlement and its associated services and facilities which include a public house, a community hall, two children's play areas and a convenience store and post office. This distance is not far and within reasonable walking distance. From the appeal site it is around 1 mile to Brightlingsea, with a large range of amenities, which although a longer walk is within a reasonable distance for pedestrians and cyclists. In any event, buses to Brightlingsea as well as to Colchester and Clacton-on-Sea can be accessed from bus stops close-by at the front of the Business Park.
7. Paragraph 103 of the Framework recognises that opportunities to maximise sustainable transport will vary from urban areas to rural areas. In the location of the appeal site I consider some reliance on car use acceptable, in combination with forms of sustainable travel such as on foot, by cycle and by bus which would be reasonably practicable in this case.
8. For the reasons I have given, there would be no harm caused through the location of the proposed dwellings. The proposal, being situated outside defined settlement development boundaries would be in conflict with Saved Policy QL1 of the Tendring District Local Plan 2007 (LP) which sets out the spatial strategy for Tendring to 2011. However, this policy is several years beyond its defined period of implementation and out-of-date. There would also be no harm caused by reason of the proposal's location. Therefore, I give the proposal's conflict with this policy very limited weight.

Character and appearance

9. Development along Brightlingsea Road has a strong linear pattern, where a ribbon of development extends along the west side of the highway. However, to the rear of this ribbon, the Woodlands Business Park on the former gravel workings includes a range of built form in a non-linear arrangement. The Park includes two-storey office accommodation for Sambeck Caravans, other structures and approximately 150 caravans displayed for sale. The new dwellings would be situated to the south of the caravans operation on unrestored scrubland and would not appear incongruous within this varied local context.

10. Further, the new dwellings would be situated on land which is approximately 8 metres lower than the dwellings on Brightlingsea Road with a buffer created by an escarpment and significant screening by trees and hedgerows. As there would be very limited views of the new dwellings from outside of the Business Park, there would be very limited visual connection between the development and the pattern of linear development on the highway.
11. Accordingly, for the above reasons, there would be no harm to the character and appearance of the area. As there would be no harm, and as in any respect each proposal must be considered on its own merits, then no harmful precedent would be set in allowing this appeal. The proposed development would not be in conflict with Saved Policies QL9, QL10 and Q11 of the LP which together seek to protect the character and appearance of places.

Other Matters

12. Occupiers of dwellings on Brightlingsea Road have raised concerns that the new dwellings would be built too close to their homes or to the raised bank to their rear, and also concern about possible use of a strip of land next to 'Vernon' to gain access to Brightlingsea Road. However, as layout and access are reserved matters these concerns can be addressed during the consideration of details submitted at that stage. I have seen no substantive evidence to lead me to conclude that the site is not in principle large enough, or is otherwise unsuitable, for 2 dwellings to be appropriately sited and accessed without causing unacceptable harm.
13. The appeal site lies within the Zone of Influence of the Colne Estuary (Mid-Essex Coast Phase 2) SPA and Ramsar site which has been identified for its importance as a habitat supporting certain protected species. Within the Zone of Influence, an assessment has concluded that visitor pressure associated from new housing development is likely to have a significant effect (either alone or in combination with other schemes) on the SPA/Ramsar site unless it is properly mitigated. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (Essex Coast RAMS) has identified a series of habitat management measures and advises that a tariff of £122.30 per dwelling would fund these measures.
14. A signed and dated unilateral undertaking has been submitted offering these contributions. Even the visits generated by one dwelling would be likely to have an incremental impact on the SPA/Ramsar site and in these circumstances the contribution would be necessary, directly related to the development and fair and reasonable in scale and kind. The mitigation strategy does not comprise the provision of infrastructure and the contributions do not therefore conflict with the limit of five or more obligations towards an infrastructure project. I am therefore satisfied that the proposed contributions would be both necessary and legitimate in this case.

Planning Balance and Conclusion

15. The parties are in agreement that the Council cannot demonstrate a 5-year housing land supply. In addition, Saved Policy QL1 of the LP as the policy most important in determining the application is out-of-date. Therefore the tilted balance in Paragraph 11d) of the Framework is engaged. This states that planning permission should be granted unless the adverse impacts of the

- proposal would significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole.
16. The Council has said that the housing shortfall is relatively modest when calculated using the standard method in the Framework and that actual housing need is lower when calculated otherwise, taking into account the district's particular demographics. I have taken into account APP/P1560/W/17/3185776 which the Council uses in support of this position.
 17. The proposed development would deliver two additional homes on previously-developed land which would be a benefit of the appeal scheme given the Framework's aim to make a more efficient use of land and significantly boost the supply of housing, which the Council are currently not achieving due to failure to provide a 5-year supply. The proposal would also create economic benefits during construction and through local spending by the new occupiers. Overall, the benefits of the proposal are matters of significant weight in favour of the development.
 18. For the reasons I have given, there would be no harm caused by the location of the proposal or upon the character and appearance of the area. Even were I to find that the housing shortfall was as modest as stated as the Council, the adverse impacts of the proposal would not significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole.
 19. I conclude that the appeal should be allowed with conditions. The proposed development would not accord with the development plan as a whole due to its conflict with Saved Policy QL1 but there are other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should succeed.
 20. I have imposed standard conditions relating to the submission and timing of reserved matter applications and the commencement of development. The Council has suggested landscaping-related conditions but these can, where appropriate, be imposed at reserved matters stage.

Andrew Walker

INSPECTOR

Appendix 3: APP/P1560/W/16/3165144





Appeal Decision

Site visit made on 14 March 2017

by **Jason Whitfield BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: **31st March 2017**

Appeal Ref: APP/P1560/W/16/3165144 Stones Green Road, Tendring CO16 0DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Sara Harrison-Osborne against the decision of Tendring District Council.
 - The application Ref 16/01044/OUT, dated 1 July 2016, was refused by notice dated 1 September 2016.
 - The development proposed is residential development of 0.5ha of land to create 5 detached dwellings with associated garaging and parking.
-

Decision

1. The appeal is allowed and planning permission is granted for the residential development of 0.5ha of land to create 5 detached dwellings with associated garaging and parking at Stones Green Road, Tendring CO16 0DD in accordance with the terms of the application, Ref 16/01044/OUT, dated 1 July 2016, subject to the conditions set out in the Schedule to this decision.

Procedural Matter

2. The application was submitted in outline with all matters reserved for future consideration. A site plan was submitted with the application for indicative purposes only. I have determined the appeal on that basis.

Main Issues

3. The main issues are:
 - whether the proposal would be a suitable location for new housing having regard to reliance on private car; and,
 - the effect of the proposal on the character and appearance of the area.

Reasons

Planning Policy Context

4. The development plan comprises the saved policies of the '*Tendring District Local Plan 2007*' (LP). The Council has also made reference to the emerging '*Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document*'. The emerging plan is nevertheless at an early stage of preparation and I therefore afford little weight to its policies.
-

5. The appeal site is located outside of any defined Settlement Development Boundaries within the LP. As a result, the proposal would conflict with Saved Policy QL1 of the LP which seeks to focus development in the District towards larger urban areas, towns, villages and within settlement development boundaries.
6. However, Paragraph 49 of the '*National Planning Policy Framework*' (the Framework) states that relevant policies for the supply of housing should not be considered up-to-date if a Council cannot demonstrate a 5 year supply of deliverable housing sites. Saved Policy QL1 seeks to control the location of housing and is, therefore, a relevant policy for the supply of housing. The Council accepts that it is currently unable to demonstrate a 5 year supply of deliverable housing sites. Consequently, LP Policy QL1 should not be considered up-to-date and I afford it limited weight.
7. Paragraph 14 of *the Framework* sets out the presumption in favour of sustainable development as: where the development plan is absent, silent, or, as in this case, relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against *the Framework* taken as a whole.

Location

8. Paragraph 17 of *the Framework* sets out that a core planning principle is to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling. Whilst recognising opportunities to maximise sustainable transport solutions will vary from urban to rural areas, Paragraph 29 of *the Framework* states that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel.
9. The parties have drawn my attention to a recent appeal decision¹ at Land adjacent to the Fat Goose PH, Tendring Heath which is close to the appeal site. At the time of the decision the Fat Goose operated as a restaurant, local shop and delicatessen. The Inspector found that the business would allow occupiers of that development to access basic provisions.
10. However, the parties indicate, and indeed it was apparent from my site visit, that the Fat Goose has since closed and no longer provides those goods and services. Whilst the appellant indicates that the property has been purchased and will re-open following a period of refurbishment, I have no substantive evidence to support that suggestion. Moreover, the appellant would have no control over whether the re-opened business would offer day-to-day goods and services. No other services or facilities within walking distance have been brought to my attention.
11. Nevertheless, whilst there are no services and facilities which would meet the everyday needs of future residents within walking distance of the site, bus stops are located close to the site on Heath Road. The stops offer access to regular bus services to Colchester, Clacton-on-Sea and other towns. Those settlements offer a wide range of facilities and services which would meet the day-to-day needs of residents. Regular and readily accessible bus services in

¹ APP/P1560/W/15/3133238

close proximity to the appeal site would therefore encourage future residents to use public transport to meet their needs for basic provisions.

12. In addition, the appeal site is located adjacent to the National Cycle Route No 51 which runs from Harwich to London and provides cycle access to a range of settlements in the wider area. Moreover, the appeal site lies in close proximity to an extensive care facility site which could reasonably provide employment opportunities that would be accessible on foot. Indeed, I noted on my site visit displays at the entrance to the homes advertising job opportunities. Consequently, I am satisfied the proposal would make the fullest possible use of sustainable transport modes.
13. I conclude, therefore, that the proposal would be a suitable location for new housing having regard to reliance on private car. The proposal would, as such, accord with the provisions of Paragraph 17 and Paragraph 29 of *the Framework*.

Character and Appearance

14. The appeal site is an area of grassed field which is bound by a hedgerow on Stones Green Road with a dense hedgerow of mature vegetation along the north western boundary of the site. Beyond the site is a wide expanse of open and undulating farmland. The appeal site lies on the boundary of the Bromley Heathland Plateau and the Tendring and Wix Clay Plateau as identified in the *Tendring Landscape Character Assessment 2001* (TLCA). The TLCA identifies the Bromley Heathland Plateau landscape as an elevated plateau dominated by large scale, geometric arable fields, whilst the Tendring and Wix Clay Plateau is identified as being characterised by an ancient pattern of isolated farms, hamlets and villages interspersed with fields. The guidance within the TLCA states that any development within the Bromley Heathland Plateau and the Tendring and Wix Clay Plateau should seek to maintain the historic dispersed settlement pattern and that further incremental linear development would disrupt this pattern.
15. In contrast to the wider landscape, the immediate area is characterised by a loose ribbon of largely residential development albeit interspersed by undeveloped areas of land which contribute positively to the spacious, rural character of the settlement. The development would extend the existing linear development on the north side of Heath Road along Stones Green Road into an area which is generally free from built form. The proposal would therefore inevitably introduce urban form into an area of land which is currently free from development.
16. However, change in character need not necessarily equate to harm. The appeal site is distinctly separate from the wider landscape, being enclosed by the dense vegetation on its boundaries. The proposal would be contained within the established confines of the site and would not result in a significant erosion of the open countryside beyond. Moreover, the proposal would be largely viewed in the context of the existing development on the south side of Heath Road and the extensive care home complex to the east.
17. Furthermore, the indicative layout demonstrates that five dwellings could be accommodated on substantial plots with generous spaces between, with a density of around 10 dwellings per hectare. This would retain extensive open spaces and vegetation within the site. As a result, the proposal would not

detract from the loose knit pattern of the settlement and would maintain the open, rural character of the area.

18. I conclude, therefore, that the proposal would not have a harmful effect on the character and appearance of the area. Consequently, the proposal would accord with Policies QL9 and EN1 of the LP which state that new development should protect or enhance local character and the quality of the district's landscape.

Planning Balance

19. I have found that the proposal would be a suitable location for new housing having regard to reliance on private car and that it would not have a harmful effect on the character and appearance of the area. In addition, there is no evidence that the proposal would affect biodiversity and ecology, subject to a condition ensuring any vegetation clearance is done so outside of the nesting bird season. As such, the proposal would meet the environmental role of sustainability.
20. There would also be economic and social benefits arising from the development. The proposal would make a modest but nevertheless important contribution towards the supply of housing in the District. The development would also support jobs during the construction phase. Paragraph 55 of *the Framework* states that housing should be located where it will enhance or maintain the vitality of rural communities. Although modest in scale, the development would nevertheless be likely to maintain or even enhance the vitality of existing and future businesses in the locality through increased spending from future residents.
21. Local residents have raised concerns that the area has no viable infrastructure to sustain new development. However, I have no substantive evidence to demonstrate that is the case. Indeed, the appellant points out that a recently commenced development to the north of the appeal site has an obligation to provide infrastructure to assist with the provision of high speed broadband in the District. It has also been put to me that local schools do not have sufficient vacancies to accommodate the proposals. However, I have not been given any detailed evidence which quantifies the extent of any local shortage or the need for any new facilities.
22. I note the concerns that the proposal could set a precedent for similar developments in the future. However, I have no compelling evidence to suggest that there are other sites with comparable characteristics. In any case, I have dealt with the appeal proposal on its own merits.
23. Consequently, whilst the proposal would conflict with LP Policy QL1, it would accord with LP Policies QL9 and EN1 and, having assessed the proposal against the policies in *the Framework* as a whole, there would be no adverse impacts arising from the development that would significantly and demonstrably outweigh the benefits of the scheme. The proposed development would, therefore, constitute sustainable development for which there is a presumption in favour of as set out in Paragraph 14 of *the Framework*.

Conditions

24. In addition to the standard time limit conditions for the submission of details pursuant to the reserved matters and for the implementation of the

development, I consider a condition requiring any vegetation removal to be undertaken outside of the bird nesting season to prevent harmful impacts on ecology. A condition requiring the submission of a Constructed Method Statement is necessary to prevent harm to the living conditions of neighbouring residents and to highway safety. I have considered all other conditions requested by the Highway Authority, however, access is a reserved matter and it would not be necessary to impose those conditions on an outline permission.

Conclusion

25. For the reasons given above I conclude that the appeal should be allowed.

Jason Whitfield

INSPECTOR

SCHEDULE

- 1) Details of the access, appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The removal of vegetation shall only be carried out outside of the bird nesting season - March to August inclusive.
- 5) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of planting and materials used in constructing the development
 - iv. wheel washing facilities.

-----END OF SCHEDULE-----

Appendix 4: APP/P1560/W/18/3218389



Appeal Decision

Site visit made on 3 May 2019

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 25 July 2019

Appeal Ref: APP/P1560/W/18/3218389

Land adjacent to Willowell, Spring Valley Lane, Ardleigh CO7 7SD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs N Moorcroft against the decision of Tendring District Council.
 - The application Ref 18/01105/FUL, dated 3 July 2018, was refused by notice dated 17 August 2018.
 - The development proposed is single residential dwelling, cartlodge, landscaping and access.
-

Decision

1. The appeal is allowed and planning permission is granted for single residential dwelling, cartlodge, landscaping and access at Land adjacent to Willowell, Spring Valley Lane, Ardleigh CO7 7SD in accordance with the terms of the application, Ref 18/01105/FUL, dated 3 July 2018, subject to conditions in the attached schedule.

Procedural Matter

2. An emerging plan, the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017), is currently under examination. It is not part of the adopted development plan. As it is not clear the extent to which any objections to its policies are unresolved or the extent to which its policies are consistent with National Planning Policy Framework (the Framework), I give them limited weight and they do not alter my conclusions.

Main Issues

3. The main issues in this appeal are:
 - whether the proposed development would be suitably located;
 - the effect of the proposed development on the character and appearance of the area, including as regards trees;

Reasons

Location

4. The appeal site is around 1.5 miles from the settlement development boundary of Ardleigh, on the fringes of Colchester. While there are agricultural fields nearby, the proposed dwelling would be associated with other detached dwellings in the area along Spring Valley Lane and would not constitute an isolated home in the countryside for the purposes of the Framework.

5. There is a bus stop at the junction of Spring Valley Lane with Bromley Road providing hourly services to Colchester and Frinton-on-Sea. Being on the fringes of Colchester, a bus journey from the appeal site to that town would not be unreasonably lengthy in order to access the large range of services and facilities that it provides. The appellant has also said that the appeal site is very close to a convenience store, a public house and schools but has not been explicit as to where these are located.
6. There is therefore some opportunity to access service and facilities without reliance on the motor car, although these would be modest. I also agree with the Inspector in the previous appeal APP/P1560/W/17/3169159 that the walk to access them down an unlit country lane with very limited footway provision would make that an unattractive option, particularly in poor daylight.
7. For the reasons I have given, there would be moderate harm caused through the location of the proposed dwelling. The proposal, being situated outside defined settlement development boundaries, would also be in conflict with Saved Policy QL1 of the Tendring District Local Plan 2007 (LP).

Character and appearance

8. Comprising of a design and materials which reflect elements of local vernacular architecture including red bricks, wooden joinery, weatherboarding and clay tiles the proposed dwelling would be in keeping with local built form and with the rural character of the area. I share the view of the Council's delegated decision officer report that the proposal would create a dwelling of good design and semi-rural appearance. Accordingly, it would not create an urbanising effect.
9. The proposed dwelling would be set back from the road to allow for landscaping and retention of existing hedgerows and trees along the frontage. It would therefore not dominate the country lane and views of the sympathetic design, which in any respect would be partially hidden and softened by the vegetation, would reinforce a sense of appropriately traditional residential development along the lane. Being between detached properties to its north and south, and broadly on the same building line, I do not consider that the development would encroach into the countryside. There is a material difference between the appeal proposal before me and that considered by the Inspector in APP/P1560/W/17/3169159, where three detached dwellings on the appeal site was considered to be an unacceptable incursion of development into the setting.
10. An Arboricultural Impact Assessment (AIA) has been submitted which shows that the development could take place without causing significant harm to trees, some of which are protected by a Tree Preservation Order (TPO).
11. The Council appears to accept the above conclusion but is concerned that, due to their proximity, the trees would reduce the amount of light reaching the windows and private amenity space of the proposed dwelling and would also produce debris and detritus that would affect the property. It is said that this would put pressure on future occupiers to prune the trees, with the risk of harming them.
12. However, the appellant has submitted evidence to demonstrate that approval has been given by the Council to reduce/prune trees to effectively mitigate

against the above problems occurring. The tree works are therefore being controlled by the Council, which will continue to have legal control over the management of the trees through the TPO, and therefore there would be no pressure as described by the Council which might cause harm to the trees.

13. Accordingly, for the above reasons, there would be no harm to the character and appearance of the area including as regards trees. As such the proposed development would not be in conflict with Saved Policies QL9 and EN1 of the LP which together seek to protect the character and appearance of places. It would also be in accordance with the design principles of the Framework.

Other Matters

14. The appeal site lies within the Zone of Influence of the Stour Estuary Special Protection Area (SPA) and Ramsar site which has been identified for its importance as a habitat supporting certain protected species. Within the Zone of Influence, an assessment has concluded that visitor pressure associated from new housing development is likely to have a significant effect (either alone or in combination with other schemes) on the SPA/Ramsar site unless it is properly mitigated. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (Essex Coast RAMS) has identified a series of habitat management measures and advises that a tariff of £122.30 per dwelling would fund these measures.
15. A unilateral undertaking has been submitted offering these contributions and the Council has agreed that the terms of this are acceptable. Even the visits generated by one dwelling would be likely to have an incremental impact on the SPA/Ramsar site and in these circumstances the contribution would be necessary, directly related to the development and fair and reasonable in scale and kind. The mitigation strategy does not comprise the provision of infrastructure and the contributions do not therefore conflict with the limit of five or more obligations towards an infrastructure project. I am therefore satisfied that the proposed contributions would be both necessary and legitimate in this case.

Planning Balance and Conclusion

16. The parties are in agreement that the Council cannot demonstrate a 5-year housing land supply. Therefore the tilted balance in Paragraph 11d) of the Framework is engaged. This states that planning permission should be granted unless the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole.
17. The Council has said that the housing shortfall is relatively modest when calculated using the standard method in the Framework and that actual housing need is lower when calculated otherwise, taking into account the district's particular demographics. I have taken into account APP/P1560/W/17/3185776 which the Council uses in support of this position.
18. The proposed development would deliver an additional home which would be a benefit of the appeal scheme given the Framework's aim to make a more efficient use of land and significantly boost the supply of housing, which the Council are currently not achieving due to failure to provide a 5-year supply. Paragraph of the Framework says that small and medium sized sites can make

an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. The proposal would also create economic benefits during construction and through local spending by the new occupiers. Overall, the benefits of the proposal are matters of significant weight in favour of the development.

19. For the reasons I have given, there would be moderate harm caused by the location of the proposal and no harm caused by the effect of it on the character and appearance of the area. Even were I to find that the housing shortfall was as modest as stated as the Council, the adverse impacts of the proposal would not significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole.
20. I conclude that the appeal should be allowed with conditions. The proposed development would not accord with the development plan as a whole due to its conflict with Saved Policy QL1 but there are other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should succeed.
21. In addition to the commencement condition, I am attaching a condition specifying the relevant plans as this provides certainty. I am also attaching conditions necessary for highway safety, and in respect to landscaping to ensure a satisfactory appearance. The wording of pre-commencement conditions have agreed with the appellant as required under S100ZA of the Town and Country Planning Act 1990.

Andrew Walker

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing numbers 120, 121, 122, 123, 124, the document titled 'Arboricultural Impact Assessment' and the untitled Site Location Plan.
- 3) Prior to the first occupation of the proposed dwelling, the proposed vehicular access shall be constructed to a width of 4.8m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.
- 4) Prior to the proposed access being brought into use, minimum vehicular visibility splays of 90m by 2.4m by 90m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.
- 5) Prior to the first use of the proposed access, details of the construction and future maintenance of the necessary bridging or piping of the drainage ditch/watercourse shall be submitted to and approved in writing by the Local Planning Authority.
- 6) No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.
- 7) The development shall not be occupied until such time as a car parking and turning area has been provided in accord with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.
- 8) No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing
 - iv. wheel and under body washing facilities.
- 9) Prior to the commencement of any above ground works, a scheme of hard and soft landscaping works for the site shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute

publication "BS 5837: 2012 Trees in relation to design, demolition and construction.

- 10) All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Appendix 5: APP/P1560/W/19/3220705



Appeal Decision

Site visit made on 3 May 2019

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 5th July 2019

Appeal Ref: APP/P1560/W/19/3220705

Leighmark, Golden Lane, Thorpe Le Soken CO16 0LE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr S Hutchby against the decision of Tendring District Council.
 - The application Ref 18/01691/OUT, dated 9 October 2018, was refused by notice dated 9 January 2019.
 - The development proposed is demolition of a garage and the erection of one dwelling.
-

Decision

1. The appeal is allowed and outline planning permission is granted for demolition of a garage and the erection of one dwelling at Leighmark, Golden Lane, Thorpe Le Soken CO16 0LE in accordance with the terms of the application, Ref 18/01691/OUT, dated 9 October 2018, subject to the following conditions:
 - 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
 - 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

Application for costs

2. An application for costs was made by Mr S Hutchby against Tendring District Council. This application is the subject of a separate Decision.

Procedural Matters

3. This is an outline application with all matters reserved. I have treated the Layout Plan as for indicative purposes only, as it states.
4. An emerging plan, the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017), is currently under examination. It is not part of the adopted development plan. As it is not clear the extent to which any objections to its policies are unresolved or the extent to which its policies are consistent with National Planning Policy Framework (the Framework), I give them limited weight and they do not alter my conclusions.

Main Issue

5. The main issue in this appeal is whether the proposed development would be suitably located.

Reasons

6. The proposed dwelling would form part of a clearly-identifiable ribbon of development along Golden Lane and would not constitute an isolated home in the countryside for the purposes of the Framework.
7. The appeal site is around 680 metres from the settlement boundary of Thorpe Le Soken under the development plan, and around 1.1 kilometres from its associated services and facilities.
8. As the nearest footpath is situated on Colchester Road, around 390 metres from the appeal site, pedestrians seeking to access the above services and facilities (or the bus stops on Colchester Road) would necessarily have to walk along the highway or along overgrown or very narrow grass verges. While I accept that this would pose a limited level of inconvenience and possibly difficulty for some future occupiers of the new dwelling, this distance is not particularly far and Paragraph 29 of the Framework recognises that opportunities to maximise sustainable transport will vary from urban areas to rural areas. In the rural location of the appeal site I consider some reliance on car use acceptable, in combination with forms of sustainable travel such as on foot and by cycle which would be reasonably practicable in this case.
9. According to the appellant, and subsequently unchallenged by the Council, Golden Lane is not unlit and possesses LED street lights from the junction with Colchester Road including a street light in close proximity to the site. Taking this into account, and the reasonably good visibility associated with the relatively straight road, I do not consider that pedestrians walking from the appeal property on Golden Lane to the footpath on Colchester Road would experience any significant safety risks.
10. For the reasons I have given, there would be no harm caused through the location of the proposed dwelling. The proposal, being situated outside defined settlement development boundaries would be in conflict with Saved Policy QL1 of the Tendring District Local Plan 2007 (LP) which sets out the spatial strategy for Tendring to 2011. However, this policy is several years beyond its defined period of implementation and out-of-date. There would also be no harm caused by reason of the proposal's location. Therefore I give the proposal's conflict with this policy very limited weight.

Other Matter

11. The appeal site lies within the Zone of Influence of the Hamford Water Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site which has been identified for its importance as a habitat supporting certain protected species. Within the Zone of Influence, an assessment has concluded that visitor pressure associated from new housing development is likely to have a significant effect (either alone or in combination with other schemes) on the SPA/SAC/Ramsar site unless it is properly mitigated. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (Essex Coast RAMS) has identified a series of habitat management measures and advises that a tariff of £122.30 per dwelling would fund these measures.

12. A signed and dated unilateral undertaking has been submitted offering these contributions and the Council has agreed that the terms of this are acceptable. Even the visits generated by one dwelling would be likely to have an incremental impact on the SPA/SAC/Ramsar site and in these circumstances the contribution would be necessary, directly related to the development and fair and reasonable in scale and kind. The mitigation strategy does not comprise the provision of infrastructure and the contributions do not therefore conflict with the limit of five or more obligations towards an infrastructure project. I am therefore satisfied that the proposed contributions would be both necessary and legitimate in this case.

Planning Balance and Conclusion

13. The parties are in agreement that the Council cannot demonstrate a 5-year housing land supply. In addition, Saved Policy QL1 of the LP as the policy most important in determining the application is out-of-date. Therefore, the tilted balance in Paragraph 11d) of the Framework is engaged. This states that planning permission should be granted unless the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole.
14. The Council has said that the housing shortfall is relatively modest when calculated using the standard method in the Framework and that actual housing need is lower when calculated otherwise, taking into account the district's particular demographics. I have taken into account APP/P1560/W/18/3196412 which the Council uses in support of this position.
15. The proposed development would deliver an additional home which would be a benefit of the appeal scheme given the Framework's aim to make a more efficient use of land and significantly boost the supply of housing, which the Council are currently not achieving due to failure to provide a 5-year supply. The proposal would also create economic benefits during construction and through local spending by the new occupiers. Overall, the benefits of the proposal are matters of significant weight in favour of the development.
16. For the reasons I have given, there would be no harm caused by the location of the proposal. Even were I to find that the housing shortfall was as modest as stated as the Council, the adverse impacts of the proposal would not significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole.
17. I conclude that the appeal should be allowed with conditions. The proposed development would not accord with the development plan as a whole due to its conflict with Saved Policy QL1 but there are other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should succeed.
18. I have imposed standard conditions relating to the submission and timing of reserved matter applications and the commencement of development. The Council has suggested some highways-related conditions but as its officer report states these can be further considered and, where appropriate, imposed at reserved matters stage when details of access and other matters are determined.

19. The Council have suggested a condition restricting future permitted development rights. Paragraph 53 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The Planning Practice Guidance advises that conditions restricting the future use of permitted development rights or changes of use "will rarely pass the test of necessity and should only be used in exceptional circumstances". The Council has suggested that the condition is necessary to ensure that the property retains sufficient private amenity space and the impact upon surrounding residents is not harmed. I have seen very limited evidence in the papers to persuade me that the condition would be necessary in achieving these aims. The officer report states that "The plot size is considered sufficient to accommodate 1 property in a manner which would not result in a particularly cramped development. Sufficient private amenity space could be provided for the new dwelling whilst retaining ample space for donor dwelling". In any respect, whether exceptional circumstances for the imposition of the condition exist is best determined at reserved matters stage when submitted details are considered.

Andrew Walker

INSPECTOR