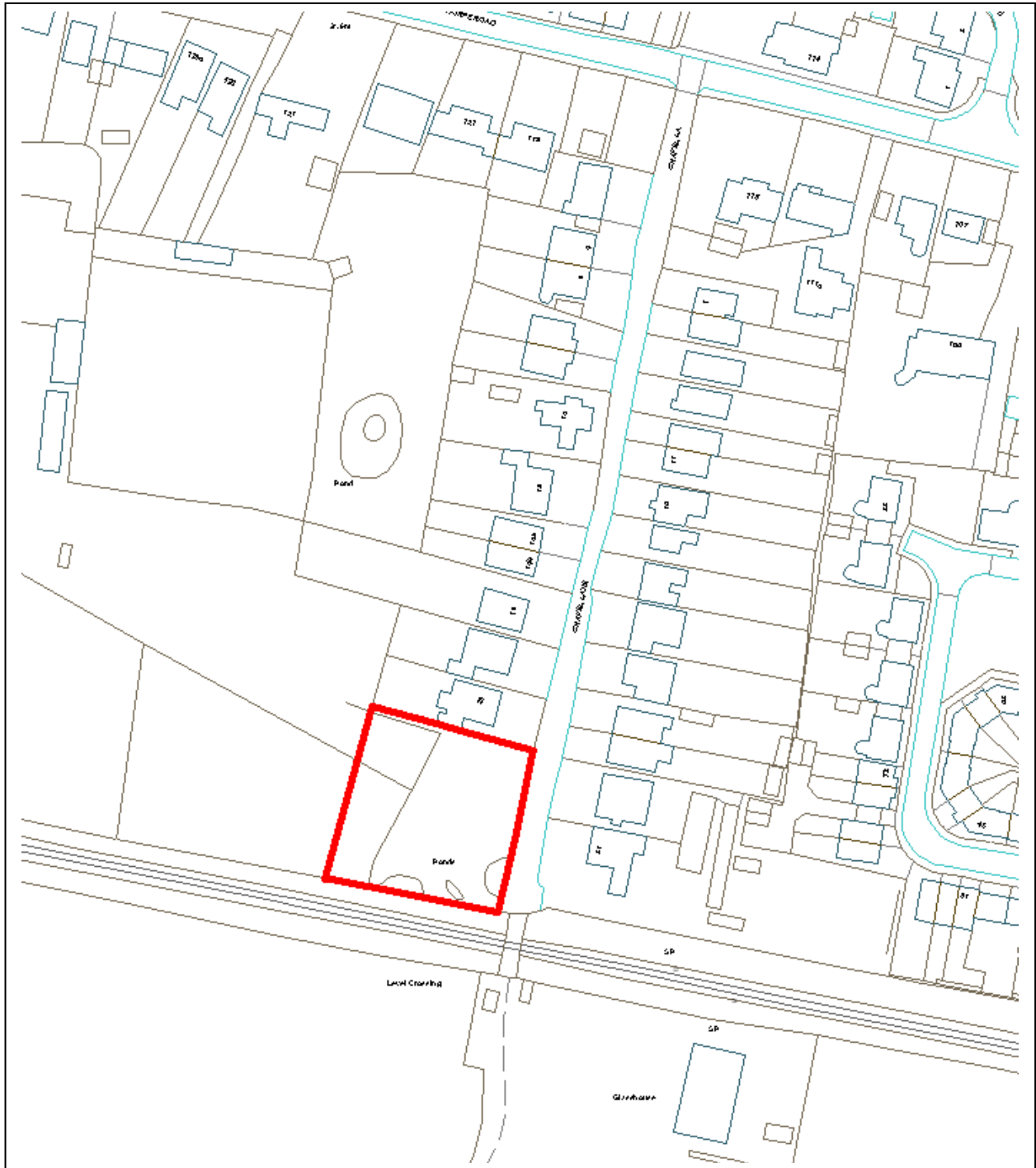


PLANNING COMMITTEE

28 MAY 2013

REPORT OF THE HEAD OF PLANNING

A.4 - PLANNING APPLICATION - 12/01238/FUL - LAND TO THE SOUTH OF 20 CHAPEL LANE, KIRBY CROSS, CO13 0NF



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Application:	12/01238/FUL	Town / Parish: Frinton & Walton Town Council
Applicant:	Mr A Ravenhill	
Address:	Land to The South of 20 Chapel Lane, Kirby Cross, CO13 0NF.	
Development:	Erection of 2no. bungalows.	

1. Executive Summary

- 1.1 Councillor Turner has requested that this application be determined by the Planning Committee for the following reasons: Contrary to the development plan (draft local plan); Site outside village envelope; Highways impact/other traffic issues; and Negative impact on neighbour.
- 1.2 The application proposes the erection of two detached bungalows on land currently used for parking and turning serving horse paddocks to the rear. The site lies wholly outside the settlement development boundary but abuts it on its northern boundary. The land is also designated as a Local Green Gap under saved Policy EN2 however this designation has not been carried through to the draft Local Plan. There are protected Oak trees along the road frontage.
- 1.3 The proposal does not represent new isolated homes in the countryside and would abut residential development to the immediate north and opposite the site, having the appearance of completing the residential development of Chapel Lane with the railway line forming a clear development barrier to the southern boundary. It is therefore considered that the residential development of this site would not result in any material harm to the landscape quality of the area and the site lies in a sustainable location on the edge of the defined urban settlement of Frinton, Walton and Kirby Cross.
- 1.4 The proposal is acceptable in terms of design, impact upon neighbours and highway safety and it has been satisfactorily demonstrated that no harm would result to the protected Oak trees. The required financial contribution towards public open space has been provided and the application is recommended for approval.

Recommendation: Approve

Conditions:

1. Standard time limit for commencement
2. Development in accordance with submitted plans
3. Tree protection works as detailed in the Tree Impact Assessment
4. Landscaping (particularly on the rear (western) boundary)
5. Construction of the private drive
6. Pedestrian visibility splays
7. No unbound materials within 6 metres of highway
8. Provision of parking area prior to occupation
9. Details of parking, loading and turning area during construction
10. Details of wheel and unbody cleaning during construction
11. Details of construction materials
12. Contaminated land (relating to unknown pond infills)

13. Permeable surfacing
14. Restriction on hours of construction work
15. Removal of permitted development rights for rooflights and dormer windows to Plot 2

Reason for Granting Planning Permission:

The National Planning Policy Framework (2012) states housing applications should be considered in the context of the presumption in favour of sustainable development and to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Policy SD1 of the Tendring District Local Plan: Proposed Submission Draft 2012 states the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

The proposal for two bungalows outside the defined urban settlement of Frinton, Walton and Kirby Cross does not represent new isolated homes in the countryside. The site abuts residential development to the immediate north and opposite the site, having the appearance of completing the residential development of Chapel Lane with the railway line forming a clear development barrier to the southern boundary.

The proposal is acceptable in terms of design, impact upon neighbours and highway safety and it has been satisfactorily demonstrated that no harm would result to the protected Oak trees.

2. Planning Policy

National Policy:

National Planning Policy Framework (2012)

Local Plan Policy:

Tendring District Local Plan (2007)

QL9	Design of New Development
QL11	Environmental Impacts and Compatibility of Uses
HG5	Local Needs Affordable Housing Outside Village Envelope
HG9	Private Amenity Space
HG18	Permanent Dwellings for Agricultural Workers
COM6	Provision of Recreational Open Space for new Residential Development
EN1	Landscape Character
EN2	Local Green Gaps
TR1a	Development Affecting Highways
TR7	Vehicle Parking at New Development

Tendring District Local Plan Proposed Submission Draft (2012)

SD1	Presumption in Favour of Sustainable Development
SD8	Transport and Accessibility
SD9	Design of New Development
PEO3	Housing Density
PEO4	Standards for New Housing
PEO11	Rural Exception Sites
PEO22	Green Infrastructure in New residential Development
PLA5	The Countryside Landscape
COU5	Agricultural and Essential Workers Dwellings

Other guidance:

Essex Design Guide (2005)

Essex County Council Parking Standards (2009)

3. Relevant Planning History

TEN/0178/90 – Dwelling with integral garage – refused 03/04/1990 on the grounds of site being outside settlement limits and two storey height, mass and siting of proposed dwelling being out of character and harmful to residential amenity. Appeal dismissed 11/01/1991.

4. Consultations

- 4.1 Essex County Council Highways - No objection subject to conditions relating to construction of the private drive; pedestrian visibility splays; no unbound materials within 6 metres of highway; provision of parking area prior to occupation; dimensions of parking spaces; maintain free passage over the public footpath (Chapel Lane); details of parking, loading and turning area during construction; details of wheel and unbody cleaning during construction; and provision of Residential Travel Information Pack.
- 4.2 TDC Principal Tree and Landscape Officer - Information provided adequately demonstrates that the trees can be protected. A condition should be imposed to secure landscaping on the rear (western) boundary to screen the development from the open countryside.
- 4.3 TDC Public Experience – It appears ponds have been infilled on site with unknown infills. Request contaminated land condition and require testing to ensure there is nothing in the land that will cause significant harm to anyone working on the site or future occupants of the proposed dwellings.
- 4.4 Frinton and Walton Town Council – Recommend refusal: Outside the village envelope and loss of amenity.

In response to the Town Council's comments it is agreed that the site lies outside the village envelope and this issue is discussed at paragraphs 6.5-6.8 below. Impact upon residential amenity is also addressed at paragraph 6.11-6.13 below.

5. **Representations**

- 5.1 Councillor Turner has requested that this application be determined by the Planning Committee for the following reasons: Contrary to the development plan (draft local plan); Site outside village envelope; Highways impact/other traffic issues; and Negative impact on neighbour.
- 5.2 Six letters of objection have been received and are summarised as follows (with Officer response in brackets):
- Site is outside village envelope (addressed in report below).
 - Site is next to a railway line (addressed in report below).
 - There is no need for more houses in Chapel Lane (although the Council has to provide a five year supply of housing across the District each application for market dwellings is not required to demonstrate a local need. However the principle of development is discussed at paragraphs 6.5 -6.8 below).
 - This is an unadopted lane maintained at the residents expense concerned development will cause damage (Highway safety issues are addressed in the report below).
 - I rent the fields at the rear and this proposal will remove vehicular access which constitutes a welfare issue (this is not a material planning consideration it is a civil matter to be resolved between the two parties and refusal of planning permission could not be justified on these grounds. Animal welfare issues are controlled by legislation outside the planning system).
 - Obstruction by construction traffic (condition has been recommended to secure details of the parking, loading and turning area within the site during construction).
 - Possible impact on property values (this is not a material planning consideration).
 - Damage country atmosphere of the lane (addressed in the report below).
 - Previous proposal to build one property was refused on appeal (this was in 1990 and following publication of the National Planning Policy Framework in 2012 there is now a presumption in favour of sustainable development as discussed in the report below. It is therefore considered that the policy position has changed significantly since the 1990 decision and the proposal should now be viewed favourably).
 - Overdevelopment of this greenfield site (the proposed development is lower density than the vast majority of development along Chapel Lane, however given the location at the end of the road and with protected trees to the site frontage the density proposed is considered acceptable).
 - Site liable to flooding due to infilled ponds (the site does not lie within a flood zone and is below 1 hectare, a Flood Risk Assessment is not therefore required. Furthermore the area of the infilled ponds forms soft landscaping to Plot 1 and it is not considered that the proposal would result in increased flood risk).

6. **Assessment**

- 6.1 The main planning considerations are:
- Policy;
 - Design;
 - Residential amenity;
 - Highway safety;
 - Protected trees; and,
 - Public open space contribution.

Proposal

- 6.2 The application proposes the erection of two detached bungalows. Each bungalow has three bedrooms, two off street parking spaces, and private rear gardens of over 280 square metres. The land is currently used for parking and turning serving horse paddocks to the rear.

Site location

- 6.3 The site is located at the end of Chapel Lane between the bungalow at number 20 and the railway line. The site lies wholly outside the settlement development boundary which runs along the northern boundary with number 20 and along the front boundary of the two bungalows opposite.
- 6.4 Chapel Lane is a public footpath and comprises a wide variety of dwellings in terms of both their height, design and construction materials. To the immediate north and opposite the site are four bungalows constructed of brick with some render and weatherboard features. Other dwellings in the immediate vicinity are render and brick chalet bungalows some with dormer windows.

Policy

- 6.5 The National Planning Policy Framework states housing applications should be considered in the context of the presumption in favour of sustainable development and to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Draft Local Plan Policy SD1 states the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.
- 6.6 The site lies wholly outside the settlement development boundary and therefore proposes two new dwellings in the countryside. Saved policies HG5 and HG18 make clear that new permanent dwellings in the countryside should only be allowed as local needs affordable housing or to support existing agricultural activities where there is a clearly established functional need. These views are reflected under draft Local Plan policies PEO11 and COU5. There is no local needs or agricultural justification for the two proposed dwellings.
- 6.7 However, the proposal does not represent new isolated homes in the countryside. The two dwellings would abut residential development to the immediate north and opposite the site and would have the appearance of completing the residential development of Chapel Lane with the railway line forming a clear development barrier to the southern boundary. To the west the open land would remain beyond the continued rear garden boundaries. It is therefore considered that the residential development of this site would not result in any material harm to the landscape quality of the area and the site lies in a sustainable location on the edge of the defined urban settlement of Frinton, Walton and Kirby Cross.
- 6.8 Saved Policy EN1 states the quality of the District's landscape and its distinctive local character will be protected from inappropriate forms of development. This view is reflected under draft Local Plan Policy PLA5. The land is also designated as a Local Green Gap under saved Policy EN2 which states this land should be kept open and essentially free of development to prevent the coalescence of settlements and to protect their rural settings. This designation has not been carried through to the draft Local Plan. As discussed above the proposal would have the appearance of completing the residential development of Chapel Lane and is not considered to result in any material harm to the landscape quality of the area.

Design

- 6.9 Saved Local Plan Policies QL9 and QL11 and draft Local Plan Policy SD9 state all new development must make a positive contribution to the quality of the local environment and relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials. The National Planning Policy Framework attaches great importance to the design of the built environment and confirms good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 6.10 The bungalows are of identical handed design with Plot one (next to the railway line) finished in render and plot two in brick. The bungalows measure 6.2 metres to the ridge with hipped roofs and would be in keeping with the character of built development in terms of their height, form and siting. Given the ridge height the bungalows would be capable of conversion to provide living accommodation in the roof. However this is common in Chapel Lane and it is not considered necessary to remove permitted development rights for dormer windows or rooflights in this location on design grounds however this issue is also discussed below in relation to potential overlooking concerns. Both bungalows have private rear gardens of over 280 square metres significantly in excess of the requirements in both the saved and draft Local Plan.

Residential Amenity

- 6.11 Plot 2 is located due south of the bungalow at number 20. Its siting in line with that dwelling and hipped roof will prevent any significant loss of light. There are two ground floor windows on the facing flank and both serve en suite bathrooms so no overlooking would result. As the proposed bungalows would be capable of conversion to provide living accommodation in the roof it is considered necessary to remove permitted development rights for rooflights and dormer windows so these can be controlled in the interests of preventing overlooking to number 20 and its private rear garden. A condition is also recommended to control the hours of construction which is considered reasonable given the close proximity of neighbouring dwellings and the scale of development proposed.
- 6.12 There is at least 29 metres separating the proposed dwellings from the two bungalows opposite. The protected trees on the front boundary also provide screening and there would therefore be no objection on the grounds of overlooking to those properties.
- 6.13 The Council's Public Experience department have no objection in relation to the noise from the railway to occupants of the proposed dwellings.

Highway Safety

- 6.14 Chapel Lane is a public footpath however the addition of two dwellings accessed from this lane which already serves around 28 dwellings is not considered to result in any material harm to highway safety for users of the public footpath. Two parking spaces are provided per dwelling with adequate turning space. The frontage parking and turning area will benefit from screening from the protected trees and there is therefore no objection on parking or visual amenity grounds.
- 6.15 The Highway Authority has no objection subject to nine conditions relating to construction of the private drive; pedestrian visibility splays; no unbound materials within 6 metres of highway; provision of parking area prior to occupation; dimensions of parking spaces (not necessary as already shown on drawings); maintain free passage over the public footpath (this will be added as a note); details of parking, loading and turning area during construction; details of wheel and unbody cleaning during construction; and provision of

Residential Travel Information Pack (this is not considered either reasonable or necessary for a development of this scale).

- 6.16 The land is currently used for parking and turning serving horse paddocks to the rear. Concern has been raised that the access to the horse paddocks will be lost however this is not a material planning consideration it is a civil matter which would need to be resolved between the two parties and refusal of planning permission could not be justified on these grounds.

Protected Trees

- 6.17 There are three individual Oak trees and a group of Oak trees which are protected on the eastern boundary of the site with Chapel Lane. Additional information was requested relating to the protected trees on the site. This information has been received and satisfactorily demonstrates that the development can be carried out without harm to the protected trees. There is therefore no objection on these grounds subject to imposition of a condition to secure the tree protection works detailed in the Tree Impact Assessment.

Public open space contribution

- 6.18 There is an identified significant deficit in equipped play facilities in this Parish and a financial contribution towards improved play equipment is justified. A unilateral undertaking has been provided and the proposal is therefore in accordance with saved Local Plan Policy COM6 and draft Local Plan Policy PEO22.

Background Papers

None.