



<b>Application:</b>	14/00608/OUT	<b>Town / Parish:</b> Weeley Parish Council
<b>Applicant:</b>	Bricklawn Ltd	
<b>Address:</b>	Land to The East of Freelands Thorpe Road Weeley CO16 9JH	
<b>Development:</b>	Outline planning application with all matters reserved for the construction of 3 dwellings with associated garages and parking.	

## 1. **Executive Summary**

- 1.1 The application site lies outside of any defined settlement development boundaries as set out in the Tendring District Local Plan (2007) or the Tendring District Local Plan Proposed Submission Draft (2012). Policies within these plans seek to restrict development to within the settlement development boundaries.
- 1.2 Outside of these boundaries Policy QL1 of the Tendring District Local Plan (2007) and Policy SD5 of the Tendring District Local Plan Proposed Submission Draft (2012) states that permission is to be refused for new residential development subject to specified exceptions.
- 1.3 The National Planning Policy Framework however sets out that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 1.4 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers considered that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF and as a result the proposed development cannot be refused solely on the basis that a site is outside the development boundary.
- 1.5 Paragraph 14 of the NPPF sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 1.6 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight.
- 1.7 Officers conclude that the proposed development would satisfy the 3 dimensions of 'sustainable development' whilst also being able to achieve a development that would comply with Policies QL9, QL10 and QL11 of the Tendring District Local Plan (2007) as well as Policy SD9 of the Tendring District Local Plan Proposed Submission Draft (2012).

### **Recommendation:**

Approve outline planning permission for the development subject to the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matter:

- Open Space Provision

**Conditions:**

1. Details of reserved matters
2. Application for approval of the reserved matters
3. Time scales for commencement
4. Construction Method Statement to include:
  - 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 the development
  - iv) wheel and under-body washing facilities
5. Location and design of the proposed private drive
6. Minimum vehicular visibility splays
7. No unbound materials
8. Off street parking details
9. Details of gates
10. Vehicular turning facility
11. Details of materials

**2. Planning Policy**National Policy:

NPPF National Planning Policy Framework

Local Plan Policy:

*Tendring District Local Plan 2007*

QL1	Spatial Strategy
QL2	Promoting Transport Choice
QL9	Design of New Development
QL11	Environmental Impacts and Compatibility of Uses
HG1	Housing Provision
HG3	Residential Development Within Defined Settlements
EN1	Landscape Character
TR1A	Development Affecting Highways
TR7	Vehicle Parking at New Development
COM6	Provision of Recreational Open Space for New Residential Development

*Tendring District Local Plan: Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014)*

SD1	Presumption in Favour of Sustainable Development
SD4	Smaller Rural Settlements

SD5	Managing Growth
SD8	Transport and Accessibility
SD9	Design of New Development
PEO1	Housing Supply
PEO4	Standards for New Housing
PEO22	Green Infrastructure in New Residential Development
PLA5	The Countryside Landscape

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

14/00608/OUT	Outline planning application with all matters reserved for the construction of 3 dwellings with associated garages and parking.	Current
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### 4. **Consultations**

ECC Highways Dept The Highway Authority raises no objection subject to:-

1. Prior to the occupation of any of the proposed dwellings, the precise location and design of the proposed private drive shall be approved in writing with the local planning authority and to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

2. 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 maintained in perpetuity free from obstruction clear to ground.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

3. No unbound materials shall be used in the surface treatment of any of the proposed vehicular access within 6m of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

4. All off street parking shall be in precise accord with the details contained within the current Parking Standards.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

5. Prior to commencement of the proposed development, details of the provision for storage of bicycles, of a design which shall be approved in writing with the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

6. No development shall take place, including any works of demolition, 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 plant and materials used in constructing the development
- iv. wheel washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

7. Any gates erected at the vehicular access shall be inward opening only and shall be recessed a minimum of 6m. from the highway boundary.

Reason: To ensure that vehicles using the access may stand clear of the carriageway whilst those gates are being opened/closed, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

8. Prior to commencement of the proposed development, a vehicular turning facility for motor cars of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

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

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to: SMO1 'Essex Highways, Colchester Highways Depot, 910 The Crescent, Colchester, CO4 9QQ.

Informative: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

## **5. Representations**

- 5.1 The Parish Council objected to the application on the basis that:
- The site is outside the village envelope.
  - Developmnet would result in erosion of the rural environment
  - Loss of amenity to immediate neighbour to the west.
  - Highway issues.
- 5.2 Whilst three letters of objection have been received one was a copy that was submitted twice. The matters raised in these letters can be summarised as follows:
- Overdevelopment of the village.
  - Environmental impact.
  - Loss of land for THRC a valuable leisure asset.
  - Loss of view over open countryside. (Loss of a view is not a planning material consideration)
  - Increase in traffic would not be sustainable.
  - Access to site is unsuitable.
  - Proximity of development to adjoining neighbour at Freelands.
  - Development would erode privacy and seclusion of adjoining neighbour.
  - Parking of contractors on highway verge.
  - Reduce interest of prospective buyers. (Not a planning consideration)
- 5.3 Further one letter of support has been received. This letter sets out that:
- Weeley could benefit from more high quality housing.
  - New dwellings should have individual design and appearance to reflect mixed character of the area.

## **6. Assessment**

- 6.1 The main planning considerations are:
- Suitability of the site for housing
  - Character and appearance
  - Neighbouring Amenity
  - Highway Considerations
  - Open Space

## **Site Context**

- 6.2 Thorpe Road comprises a linear form of development with a mixed character resulting from dwellings of varying scale, bulk, design and appearance. In the immediate vicinity of the site development is characterised by a number of large bungalows as well as some semi-detached properties.
- 6.3 The site is located to the east of the residential curtilage of Freelands which is screened by mature vegetation. To the east of the application site lies Brooks Farm which comprises a number of agricultural buildings with a mixed character with regard to design and appearance.
- 6.4 The site itself is mainly laid to grass and forms part of a larger field. An established hedgerow defines the northern boundary which marks the boundary of the site from the wide highway verge. The western boundary of the site is shared with Freelands and is defined by a hedgerow as well as fencing. As the site currently forms part of a larger field the eastern and southern boundaries are not defined on site.
- 6.5 The site measures approximately 37m in depth and has an average width of 40m with currently no access from Thorpe Road into the site.

## **Proposal**

- 6.6 The current application seeks outline consent with all matters reserved for the construction of 3 dwellings with associated garages and off-street parking on the application site as defined within this application. Access to the site would be through a single access and egress point onto Thorpe Road.
- 6.7 The applicants have indicated that whilst matters of design and appearance have been reserved for later consideration it is anticipated that the proposed dwellings would be between 8-10m in width, 10-12m deep and finished with a maximum height of between 7.5m to 8.5m.
- 6.8 It is further suggested that there would be sufficient land available to allow for substantial landscaping, most notably to the southern and eastern boundaries.
- 6.9 It should be noted that whilst the applicants set out in their design and access statement that the position of dwellings would follow the prevailing linear development in the vicinity officers consider that, based on the indicative property setbacks from Thorpe Road provided, the scheme would result in dwellings set well back from the established front building line along Thorpe Road while also providing rear gardens of limited depth. This would result in a development that would be harmful to the established character of the area contrary to relevant Local Plan Policies. As this application is in outline form with all matters reserved members are advised that the scheme cannot be refused on this basis.
- 6.10 The applicant will however be informed that a development of this nature would not be acceptable and any application for reserved matters would need to consider siting the properties further forward on the site to more accurately reflect the established built form along Thorpe Road.
- 6.11 The main issues for consideration are:
- whether the site would be suitable for housing having regard to the principles of sustainable development
  - the effect of the proposed development on the character and appearance of the surrounding area

### **Suitability of the site for housing**

- 6.12 The application site is located immediately to the east of the residential dwelling at Freelands. The site is adjacent to but outside the village development boundary as defined within the Tendring District Local Plan, 2007 which aims to restrict new development to the most sustainable sites. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.
- 6.13 Weeley is identified as a village within Policy QL1 of the Tendring District Local Plan (2007) and on this basis it is considered that a modest amount of growth can be supported. Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.
- 6.14 Chapter 6 of the National Planning Policy Framework (NPPF) has as an objective the delivery of a wide choice of high quality homes. In order to facilitate this objective paragraph 49 of the NPPF sets out housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 6.15 It is accepted that the Council cannot demonstrate a deliverable 5 year housing land supply and as a result officers considered that Tendring District Local Plan (2007) Policy QL1, cannot be considered up-to-date as set out in paragraph 49 of the NPPF.
- 6.16 This view has also been supported by the Planning Inspectorate in a number of recent appeal decisions for similar outline schemes.
- 6.17 Members should note that whilst the Council has published the Tendring District Local Plan Proposed Submission Draft (2012), the document is yet to be submitted to the Secretary of State and formal adoption cannot take place before it has been examined, consulted on and found to be sound and until that time the relevant emerging policies may possibly be subject to change. When considered in relation to paragraph 216 of the Framework they may be afforded only limited weight.
- 6.18 Based on the above it is considered that, in the absence of up-to-date policies, development proposals cannot be refused solely on the basis that a site is outside the development boundary. Paragraph 14 of the NPPF supports this view when it sets out that where relevant policies are out-of-date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 6.19 On this basis and having regard to paragraphs 14 and 49 of the NPPF, the presumption in favour of sustainable development carries significant weight. As a result the current scheme falls to be considered against the 3 dimensions of 'sustainable development',
- economic,
  - social and
  - environmental roles.
- 6.20 The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary.
- 6.21 Officers consider that the proposal would contribute economically to the area and so meets the economic arm of sustainable development.



- 6.22 In terms of the social role, the site is within close proximity of some community services with a small shop, a post office and a public house within walking distance of the site. Weeley is also on a bus route and there are bus stops in Thorpe Road (Black Boy Pub) and The Street with services to Clacton and Colchester.
- 6.23 In addition it is noted that Weeley has been identified as one of seven 'Key Rural Services Centres' within the district in Policy SD3 of the Tendring District Local Plan Proposed Submission Draft (2012). These are larger villages containing a relatively good range of local services and facilities with potential for limited growth in homes and jobs. For these settlements, the Draft Local Plan identifies opportunities for the enhancement of village centres, public transport facilities and other community facilities. Whilst the policy has limited weight at this stage, it goes some way to illustrate the sustainability credentials for the village.
- 6.24 Overall officers consider that the application site performs reasonably in terms of the social role within the definition of sustainability.
- 6.25 Further it is noted that the site is located outside but immediately adjacent to the development boundary for Weeley. On this basis officers are of the view that if this site was inside the development boundary it would subject to the location of the proposed properties further forward on the site as suggested would have resulted in the outline application being approved.
- 6.26 It is acknowledged that, in terms of settlement shape and form, development in this location is unlikely to have a significantly detrimental impact (subject to consideration against other Local Plan policies) as the site immediately adjoins the Settlement Development Boundary in the 2012 Draft Local Plan with a number of residential dwellings to the north and north east of the site, a residential property immediately to the west and agricultural buildings to the east.
- 6.27 As a result development at the scale proposed would effectively mirror existing development on the opposite side of Thorpe Road and fill in the gap between existing dwellings to the west and Brook Farm to the east. On this basis officers consider that a more pragmatic approach is justified in this instance.

### **Character and appearance**

- 6.28 The application is in outline with all matters reserved. However, the Design and Access Statement submitted with the application suggests that the development would comprise 3 No. detached residential dwellings measuring approximately 8-10m in width, 10-12m deep and finished with a maximum height of between 7.5m to 8.5m. It is considered that given the size of the site sufficient space would be available to accommodate dwellings that would comply with the Councils requirements with regard to internal floor space, parking provision and amenity space as set out in Policy PEO4 of the Tendring District Local Plan Proposed Submission Draft (2012).
- 6.29 As has been stated earlier it should be noted that whilst the applicants set out in their design and access statement that the position of dwellings would follow the prevailing linear development in the vicinity officers consider that, based on the indicative property setbacks from Thorpe Road provided, the scheme would result in dwellings set well back from the established front building line along Thorpe Road while also providing rear gardens of limited depth. This would result in a development that would be harmful to the established character of the area contrary to relevant Local Plan Policies.

- 6.30 As this application is in outline form with all matters reserved members are advised that the scheme cannot be refused on this basis.
- 6.31 The applicant will however be informed (through the inclusion of an informative) that a development of this nature would not be acceptable and any application for reserved matters would need to consider siting the properties further forward on the site to more accurately reflect the established built form along Thorpe Road.
- 6.32 Although design and appearance do not form part of the consideration of this outline application, it is considered that the site is capable of accommodating 3 dwellings in a way that would not result in any adverse impact on the character and appearance of the surrounding area and therefore, officers conclude that the proposed development can be considered as fulfilling the environmental role of sustainable development and consequently does comply with the presumption in favour of sustainable development anticipated in paragraph 14 of the NPPF.

### **Neighbouring Amenity**

- 6.33 The NPPF, in paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. Policy SD9 of the Tendring District Local Plan Proposed Submission Draft (2012) supports these objectives and states that 'the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'.
- 6.34 The application is in outline form and officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve an internal layout and separation distances that would not detract from the amenities of the adjoining neighbours at Freelands or the future occupiers of the proposed dwellings.

### **Highway Considerations**

- 6.35 Policy QL10 of the Saved Plan states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. This requirement is also carried forward to Policy SD9 of the Draft Plan.
- 6.36 Essex County Council Highways have been consulted on the application (see above for full comments). They raise no objection to the principle of a single point of access, to serve 3 dwellings.
- 6.37 Notwithstanding the above the Councils Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces required. Parking spaces should measure 5.5 metres by 2.9 metres and garage, if being relied on to provide a parking space should measure 7 metres by 3 metres. It is considered that the site is capable of accommodating this level of parking.

### **Open Space**

- 6.38 Policy COM6 of the Adopted Tendring District Local Plan (2007) states that residential development below 1.5 hectares in size, where existing public open space facilities are inadequate, shall provide a financial contribution towards the provision of new or improved

off-site facilities to meet the projected needs of the future occupiers of the development. This requirement is also set out in Policy PEO22 of the Draft Plan.

- 6.39 Due to the short time scale between receipt of the application and the drafting of the Committee Report a formal consultation with regard to the likely Unilateral Undertaking contribution has not been received yet.
- 6.40 The applicants have however indicated that they would be willing to enter into such an agreement to secure any financial contribution to open space provision that might be required.

#### Background Papers

None.