

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	17/09/2018
Planning Development Manager authorisation:	AN	17/9/18
Admin checks / despatch completed	SB CD	17/09/18 17/09/18

**Application:** 18/01003/FUL **Town / Parish:** Mistley Parish Council

**Applicant:** Mr Lee Whitley - Ergotechnics

**Address:** Cross Inn Clacton Road Horsley Cross

**Development:** Creation of new vehicular access.

### 1. Town / Parish Council

No comments received.

### 2. Consultation Responses

ECC Highways Dept      The Highway Authority raises an objection to the above application for the following reasons:

As far as can be determined from the submitted plans the Applicant does not appear to own or control sufficient land to provide the proposed access with adequate vehicular visibility splays contrary to the recommended minimum standards for highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

### 3. Planning History

94/00866/FUL	(The Cross Inn, Horsley Cross, Mistley) Kitchen extension and use of land as car park	Approved	13.09.1994
05/00779/FUL	Two storey rear extension to living accommodation and single storey side extension/re-build to public house	Refused	17.06.2005
91/00219/FUL	Construction of additional ladies and gents WC for use with existing bar area.	Approved	02.05.1991
10/01176/FUL	New escape staircase for existing first floor accommodation and internal alterations to first floor.	Approved	03.12.2010

### 4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007



- QL9 Design of New Development
- QL10 Designing New Development to Meet Functional Needs
- QL11 Environmental Impacts and Compatibility of Uses
- TR1A Development Affecting Highways
- EN1 Landscape Character
- Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)
- SPL3 Sustainable Design
- PPL8 Conservation Areas
- CP1 Sustainable Transport and Accessibility

### **Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

## **5. Officer Appraisal (including Site Description and Proposal)**

### **Site Description**

The application relates to a triangular parcel of land to the rear of the Cross Inn Public House located to the north of the Horsley Cross roundabout, Manningtree. The site extends approximately 0.19 hectares in size across the rear boundary of the Cross Inn and the rear boundaries of the 2 adjacent cottages. The site is open to its frontage and enclosed along its rear boundary by a hedgerow and fencing and planting to the rear of the pub and residential dwellings. There is a grass verge/strip approximately 5 metres in width along the side of the pub and application site that is not included within the red lined site area and not shown in blue (other land within their ownership). The site lies outside of the settlement development boundary for the area with open fields to the rear.



### Proposal

This application seeks full planning permission for the creation of a new vehicular access and associated dropped kerb to the northern part of the site to allow for maintenance of the land/grass cutting.

### Assessment

The main considerations in this instance are;

- Highway Safety;
- Visual Impact;
- Impact on neighbouring amenities; and,
- Representations.

### Highway Safety

Paragraph 108 of the National Planning Policy Framework 2018 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 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. Furthermore, saved Policy TR1a requires new development to be considered in relation to the road hierarchy to reducing and preventing hazards and inconvenience to traffic. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft June 2017.

Essex County Council Highway Authority have been consulted on the application and raise an objection to the development as the applicant does not appear to own or control sufficient land to provide the proposed access with adequate vehicular visibility splays therefore being contrary to highway safety.

These comments were sent to the agent on 7th August 2018 and the agent has been invited to provide additional/amended information to try and overcome these objections. The agent was contacted again on 13th September 2018. No such information has been forthcoming.

The access proposed is onto a B Road in close proximity to a busy roundabout with vehicular traffic travelling at speed. The development is therefore contrary to the afore-mentioned national and local plan policies as it fails to demonstrate that there would be no harm to highway safety as a result of the development.

### Visual Impact

Paragraph 127 of the National Planning Policy Framework 2018 (NPPF) requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape. 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.

The proposed access will not result in the loss of any trees or hedgerows and will retain the open character of the site frontage. Although not shown on the proposed plans the accompanying application form states that the proposal will consist of concrete kerbs and tarmac hard standing. The area of hardstanding would appear to serve the access only and not extend into the site. There are other vehicular accesses in the locality serving the pub and adjacent dwellings. The proposal is not considered to alter the character of the site or landscape setting to any extent that could be considered harmful.

The application states that the access is to allow the maintenance of the site for grass cutting etc. Access and egress from the site still needs to be served by sufficient visibility splays even for this minor use and the highways reasons for refusal as set out above are considered justified.





There are concerns that the access may lead to a future use or development more intensive or visually harmful than that proposed. However, this would be assessed on its merits at the time of any future application.

#### Impact on Neighbours

The NPPF 2018, at paragraph 127 states that planning should always seek to secure a high standard of amenity for all existing and future users. In addition, saved Policy QL11 of the adopted 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'. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft June 2017.

The proposed development is minor in nature and sited well away from the neighbouring cottages with common boundaries to the site and those opposite. The proposal is therefore of a minor scale and would not result in any harm that would not result in a harmful impact to the neighbouring properties.

#### Other Considerations

No comments have been received from Mistley Parish Council.

1 letter of objection has been received raising the following concerns;

- Would hinder rights of access.
- Concerns that overflow parking for the public house is the true intended use for the site.
- Maintenance of the site has always been undertaken without the need for a dropped kerb access.

Rights of access are not a material planning consideration as this is a matter for the interested parties only. Planning cannot pre-empt what development or uses may occur in the future and can only consider the information provided within the application.

#### Conclusion

Whilst the proposal would not result in any demonstrable harm upon the character of the area or neighbouring amenities, it is considered that it would be detrimental to highway safety and therefore fails to meet the aims and aspirations of the afore-mentioned national and local plan policies.

### **6. Recommendation**

Refusal - Full

### **7. Reasons for Refusal**

- 1 Paragraph 108 of the National Planning Policy Framework 2018 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 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. Furthermore, saved Policy TR1a requires new development to be considered in relation to the road hierarchy to reducing and preventing hazards and inconvenience to traffic. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft June 2017.

The access proposed is onto a B Road in close proximity to a busy roundabout with vehicular traffic travelling at speed. The proposal leads to the creation of a further vehicular access which would introduce an additional and unnecessary point of traffic conflict into the highway with no vehicular visibility splays.

The development is therefore contrary to the afore-mentioned national and local plan policies as it fails to demonstrate that there would be no harm to highway safety as a result of the development.





## **8. Informatives**

### **Positive and Proactive Statement**

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

