

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	12/09/18
Planning Development Manager authorisation:	AN	17/9/18
Admin checks / despatch completed	FW	18/9/18

Application: 18/01227/FUL **Town / Parish:** Frinton & Walton Town Council

Applicant: Mr & Mrs J Nash

Address: Land adjacent to Larges Farm Cottage Kirby Road Great Holland

Development: Proposed detached dwelling with use of existing garage.

1. Town / Parish Council

Frinton & Walton Town Council Refusal – against backland development and long drives.

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 proposal appears to deprive the existing dwelling of its off street turning and turning facilities leading to additional vehicles being parked in the adjoining highway and vehicles reversing into the highway causing conditions of danger and obstruction to road users contrary to the interests of highway safety and Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

As far as can be determined from the submitted plans the proposal would lead to intensification of use of the site without adequate turning facilities for the proposed dwelling. The proposal would therefore give rise to vehicles reversing into the highway to the detriment of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Tree & Landscape Officer The proposed development would, if implemented, necessitate the removal of a short section of the boundary hedge comprising Cupressocyparis 'Leylandii' and an early mature Silver Birch to the south east of the hedge. This will not, in itself, have a significant adverse impact on the character and appearance of the area and the Silver Birch does not merit formal legal protection by means of a tree preservation order.

To the south east of the existing stable block and the position of the proposed new dwelling there is an established White Willow that is a mature and attractive specimen.

Close inspection reveals that the tree has extensive decay in one of the main limbs. The tree is likely to need to be reduced in size by something in the region of 50% if it is to be retained in a safe condition. The tree does not merit protection by means of a tree

preservation order.

If planning permission is likely to be granted then it would be desirable to secure details of soft landscaping to ensure that the proposed dwelling sits comfortably in its setting.

3. Planning History

N/A

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG9 Private Amenity Space

HG13 Backland Residential Development

HG14 Side Isolation

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

LP1 Housing Supply

LP4 Housing Layout

LP8 Backland Residential Development

SPL1 Managing Growth

SPL3 Sustainable Design

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

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.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the Council is able to demonstrate a robust five year supply of deliverable housing sites (as confirmed in recent appeal decisions) and housing delivered over the previous three years has been comfortably above 75% of the requirement. There is consequently no need for the Council to consider an exceptional departure from the Local Plan on housing supply grounds and applications for housing development are to be determined in line with the plan-led approach.

5. Officer Appraisal

Site Description

The application site is land sited to the east of Larges Farm Cottage, which is located on the eastern side of Kirby Road within the parish of Great Holland. The access to the site lies adjacent to Larges Farm Cottage, whilst the location of the proposed dwelling currently forms part of the extended curtilage of Larges Farm Cottage, and is laid to grass with cross and rail fencing and a large outbuilding in connection with equestrian use.

The character of the surrounding area is semi-rural, with some residential dwellings to the west, and under appeal decision APP/P1560/W/15/3027411 three dwellings have recently been approved to the south. However notably to the east and further out to the west the character is dominated by large areas of grassed or agricultural land.

The site is not situated within a recognised Settlement Development Boundary within the Saved Tendring Local Plan 2007, and within the Emerging 2013-2033 Tendring Local Plan Publication Draft only the access is included in the Settlement Development Boundary for Great Holland.

Proposal

The application seeks planning permission for the erection of one detached dwelling, serving five bedrooms.

Assessment

1. Principle of development

The site lies outside of the Settlement Development Boundary for Great Holland as defined by the adopted Tendring District Local Plan (2007), and within the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) only the access falls within the Settlement Development Boundary for Great Holland. Saved 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. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.

- 5 year Housing Land Supply and Plan-led approach

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

The Council can demonstrate, with robust evidence, a five-year supply of deliverable housing sites and this has been confirmed in recent appeal decisions. This is based on a housing requirement of 550 dwellings per annum which has been confirmed as sound by the Inspector for the Local Plan examination on 27 June 2018 (Examination of the Strategic Section 1 Plan - Meeting the Need for New Homes (Plan chapter 4)). Therefore policies for the supply of housing are not out of date and applications for housing development are to be determined in accordance with the Local Plan.

Therefore, having regard to the latest housing land supply figures and with the emerging Local Plan progressing well, officers consider that greater weight can be given to Section 3 (Plan-Making) of the NPPF. Under this section, paragraphs 15, 17 and 20 state that the planning system should be genuinely plan-led, must include strategic policies to address local planning authority's priorities for the development and use of land, and should set out an overall strategy for the pattern, scale and quality of housing development.

Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations therefore being in line with the aims of the aforementioned paragraphs 15, 17 and 20 of the NPPF. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.

Great Holland is identified as a village within saved Policy QL1 of the adopted Tendring District Local Plan 2007 and is defined as a Smaller Rural Settlement within Policy SPL1 of the emerging Tendring District Local Plan Publication Draft (2017). These smaller villages are considered to be the least sustainable locations for growth and there is a concern that encouraging too much development in these areas will only serve to increase the number of people having to rely on cars to go about their everyday lives. It is accepted that each of these smaller rural settlements can achieve a small scale increase in housing stock over the plan period. To allow for this to happen, Settlement Development Boundaries have been drawn flexibly, where practical, to accommodate a range of sites both within and on the edge of villages and thus enabling them to be considered for small-scale residential 'infill' developments. With this in mind, where appropriate the emerging

Local Plan settlement development boundary has been extended but does not include the application site.

In applying the NPPF's presumption in favour of sustainable development, the adverse impacts of the proposal, both on the undeveloped character of the locality and on the Council's ability to manage growth through the plan-led approach, are not outweighed by the benefits. The development is unnecessary and there are no public benefits that might warrant the proposal being considered in an exceptional light. The proposal is therefore contrary to the aims of paragraphs 15, 17 and 20 of the NPPF and contrary to the development plan Saved Policy QL1 and emerging Policy SP1.

- Assessment of Sustainable Development

Officers consider that Saved Policy QL1 and emerging Policy SPL1 are in line with the aforementioned aims of the NPPF. However, until such time as the emerging local plan has been adopted, and for the purposes of completeness in assessing sustainable development, the three dimensions as set out under Paragraph 8 of the NPPF can be addressed as follows;

Economic:

Officers consider that the proposal would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants utilising local services, and so meets the economic arm of sustainable development.

Social:

The NPPF seeks to support a prosperous rural economy. It promotes sustainable transport and seeks a balance in favour of sustainable transport modes to give people a real choice about how they travel recognising that opportunities to maximise solutions will vary between urban and rural areas. With regard to the social dimension, this means supporting strong, vibrant and healthy communities by supplying the housing required to meet the needs of present and future generations and creating a high quality environment with accessible local services.

In the Council's "Local Plan Settlement Hierarchy" document (April 2016) Great Holland is identified as a smaller rural settlement with no primary school, GP Surgery, defined village centre or railway station. Great Holland is therefore classed as one of the District's lowest scoring settlements in terms of its sustainability credentials. As a result the proposal is not considered to be sited within a socially sustainable location and would likely require the use of a private vehicle to complete everyday trips, thereby failing to accord with the social strand of sustainable development.

Environmental:

The environmental role is about contributing to, protecting and enhancing the natural built and historic environment. The site is located in a semi-rural area, and there are examples of dwellings nearby to the west and south. Against this backdrop, it is not considered that an additional dwelling, which will also result in the loss of the existing stable block, would result in significant detrimental harm to fail the environmental strand of sustainability.

2. Backland Development

The development involves the construction of one detached dwelling in a 'backland' location to the rear of the established residential frontage along Kirby Road. With regards to Policy HG13 of the 2007 Local Plan (and echoed in policy LP8 of the draft Local Plan), it states proposals for the residential development of backland sites must comply with the following criteria:

- i. the site lies within a defined settlement development boundary and does not comprise land allocated or safeguarded for purposes other than a residential use;

- ii. where a proposal includes existing private garden land which would not result in less satisfactory access or off-street parking arrangements, an unacceptable reduction in existing private amenity space or any other unreasonable loss of amenity to existing dwellings;
- iii. a safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will be discouraged;
- iv. the proposal does not involve "tandem" development using a shared access;
- v. the site does not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;
- vi. the site is not on the edge of defined settlements and likely to produce a hard urban edge or other form of development out of character in its particular setting; and
- vii. the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development.

The main problems that can arise as a result of backland development include undermining the established character of an area (especially if similar schemes were to be repeated elsewhere in a locality); dwelling plots appearing cramped relative to their surroundings; the fragmentation of established gardens with a loss of mature landscaping; and the infringement of neighbouring residents' amenities. Development behind an established building line can also appear incongruous, particularly with isolated dwellings.

There must also be proper means of access to backland development, which is safe and convenient for both drivers and pedestrians, with a turning area where necessary to avoid the need for vehicles to reverse onto a public highway. A proposed access should avoid excessive disturbance or loss of privacy to neighbouring residents through, for example, an access drive passing unreasonably close to an adjoining dwelling. The likely frequency of use by vehicular traffic and the suitability of the access for service vehicles and the emergency services will also be relevant material considerations.

In respect of the policy criteria noted above the development is considered to meet the requirements as follows;

- (i) - the site is not located within a defined settlement boundary in either the saved and emerging local plans; however is not designated for any particular use;
- (ii) - both proposed dwellings will have private garden areas far in excess of 100sqm, which will accord with the requirements of saved policy HG9, whilst each dwelling will have sufficient off-street parking provision and the existing access point will remain.
- (iii) - the private access would be located on the northern side of Larges Farm Cottage. Whilst there will be a slight degree of noise disturbance to occupants of Larges Farm Cottage, the comings and goings associated with one additional dwelling are not considered to be excessive, whilst the access is in situ currently so will result in no visual detriment to the street scene.
- (iv) - whilst the layout indicates 'tandem development' the proposed development will see the creation of an additional access point, meaning there will be no shared access.
- (v) - the site is of a regular shape and would not compromise a more comprehensive development solution.
- (vi) - the development of the site would not form a hard urban edge to the settlement as the land is surrounded by residential development to the south and west.
- (vii) - the development would not set a harmful precedent as the development is not harmful in its own right and each case must be assessed on its own merits. The development of the land to the south, approved under planning appeal reference APP/P1560/W/15/3027411 sets the tone for residential development of this backland form and ensures the construction of an additional dwelling in this location would not adversely impact upon the overall character of the locality.

3. Layout, Design and Appearance

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The proposed dwelling is to be detached, 1.5 storey and sited to the east of Larges Farm Cottage. The dwelling will be accessed via a newly created access point to the north-west corner of the site off Kirby Road. The siting of the dwelling will be set back approximately 10m from Larges Farm Cottage; however as previously mentioned due to planning permission granted for three dwellings to the south, the previous consistent linear pattern of development along this section of Kirby Road has been altered, and there is therefore not significant identifiable harm with the dwellings' proposed siting.

In terms of the proposed design of the dwellings, there is not a principle objection with the 1.5 storey traditional design. Whilst the design is not concerned to be of exceptional quality, it is acknowledged effort has been made to break up the bulk of the proposal with the inclusion of a chimney, front gable and single storey rear and side extensions. This, and that the dwelling will not be visible from the street scene, mean that on balance the design of the proposed dwelling is not harmful enough to warrant a reason for refusal.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of three bedrooms or more should be a minimum of 100 square metres. The submitted plans show this is comfortably achievable for the new dwelling and for the existing dwelling.

4. Impact upon neighbours

Policy QL11 of the Saved Plan 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 sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The proposed dwelling will be visible to both the adjacent neighbours to the east, Larges Farm Cottage and Larkswood.

The occupiers of Larges Farm Cottage are likely to be most impacted upon; however there is an approximate separation distance of 20m, which will ensure no loss of light or the dwelling appearing imposing. However it is acknowledged that the dwelling, in particular the front gable elevation window serving a bedroom, will have direct views into the neighbouring private garden area. Accordingly, to overcome this, had the recommendation been one of approval a condition would have been attached to ensure this window was obscure glazed.

With respect to the impact to the amenities of 'Larkswood', given that there is an approximate separation distance of 40m, there will be no significant impacts in terms of loss of light or the dwelling appearing imposing. In terms of potential overlooking the first floor front elevation windows each serving a bedroom will have minimal views to their rear garden; however given the aforementioned separation distances the degree of overlooking would be minimal and not significant enough to warrant a reason for refusal.

Therefore, on balance, the harm identified to neighbouring amenities is not significant enough to warrant a reason for refusal.

5. Highways

Essex County Council Highways have been consulted as part of the process of this application and have raised two objections.

The first objection is that the plans submitted appear to show the proposed development will deprive the existing dwelling, Larges Farm Cottage, of its off street turning and parking facilities, which will lead to additional vehicles being parked in the adjoining highway. However, given that there is a large garden area that can comfortably accommodate the necessary requirements, it would not be reasonable to include this as a reason for refusal.

The second objection is there is insufficient information to demonstrate that the proposal can be developed without resulting in an intensification of use of the site without adequate turning facilities for the proposed dwelling; the proposal would therefore result in vehicles reversing into the highway to the detriment of highway safety.

6. Tree and Landscape Impacts

The proposed development would necessitate the removal of a short section of the boundary hedge comprising Cupressocyparis 'Leylandi' and an early mature Silver Birch. However, this would not have a significantly adverse impact on the character and appearance of the area, whilst the Silver Birch does not merit formal legal protection by means of a Tree Preservation Order. Further, a White Willow tree to the south-east of the stable block is likely to need to be reduced by approximately 50% if it is to be retained in a safe condition, however again does not require formal legal protection.

Therefore, subject to conditions to secure soft landscaping, the proposal is acceptable against this criterion.

Other Considerations

Frinton and Walton Town Council recommend refusal as it is against backland development and long drives.

In answer to this, these points have been addressed within the main body of the report above.

There have also been two letters of objection received, with the following concerns;

1. Backland development;
2. Development outside of a Settlement Development Boundary;
3. Noise disturbances to neighbours; and
4. TDC now has a 5 year housing supply of land.

In answer to this, all of the above points have been addressed within the main body of the report above.

Conclusion

For the reasons set out above, the proposal is considered to represent an unsustainable form of development contrary to the aims of national and local plan policy and is therefore recommended for refusal.

6. Recommendation

Refusal

7. Reasons for Refusal

- 1 The site lies outside of the Settlement Development Boundary for Great Holland as defined by the adopted Tendring District Local Plan (2007), and within the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) only the access falls within the Settlement Development Boundary for Great Holland. Saved 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. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.

The Council can demonstrate, with robust evidence, a five-year supply of deliverable housing sites and this has been confirmed in recent appeal decisions. This is based on a housing requirement of 550 dwellings per annum which has been confirmed as sound by the Inspector for the Local Plan examination on 27 June 2018 (Examination of the Strategic Section 1 Plan - Meeting the Need for New Homes (Plan chapter 4)). Therefore policies for the supply of housing are not out of date and applications for housing development are to be determined in accordance with the Local Plan.

Therefore, having regard to the latest housing land supply figures and with the emerging Local Plan progressing well, officers consider that greater weight can be given to Section 3 (Plan-Making) of the National Planning Policy Framework. Under this section, paragraphs 15, 17 and 20 state that the planning system should be genuinely plan-led, must include strategic policies to address local planning authority's priorities for the development and use of land, and should set out an overall strategy for the pattern, scale and quality of housing development.

Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations therefore being in line with the aims of the aforementioned paragraphs 15, 17 and 20 of the NPPF. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.

Great Holland is identified as a village within saved Policy QL1 of the adopted Tendring District Local Plan 2007 and is defined as a Smaller Rural Settlement within Policy SPL1 of the emerging Tendring District Local Plan Publication Draft (2017). These smaller villages are considered to be the least sustainable locations for growth and there is a concern that encouraging too much development in these areas will only serve to increase the number of people having to rely on cars to go about their everyday lives. It is accepted that each of these smaller rural settlements can achieve a small scale increase in housing stock over the plan period. To allow for this to happen, Settlement Development Boundaries have been drawn flexibly, where practical, to accommodate a range of sites both within and on the edge of villages and thus enabling them to be considered for small-scale residential 'infill' developments. With this in mind, where appropriate the emerging Local Plan settlement development boundary has been extended but does not include the application site.

In the Council's "Local Plan Settlement Hierarchy" document (April 2016) Great Holland is identified as a smaller rural settlement with no primary school, GP Surgery, defined village centre or railway station. Great Holland is therefore classed as one of the District's lowest scoring settlements in terms of its sustainability credentials. As a result the proposal is not considered to be sited within a socially sustainable location and would likely require the use of a private vehicle to complete everyday trips, thereby failing to accord with the social strand of sustainable development.

In applying the NPPF's (2018) presumption in favour of sustainable development, the adverse impacts of the proposal, both on the undeveloped character of the locality and on the Council's ability to manage growth through the plan-led approach, are not outweighed by the benefits. The development is unnecessary and there are no public benefits that might warrant the proposal being considered in an exceptional light. The proposal is therefore contrary to the aims of paragraphs 15, 17 and 20 of the NPPF and contrary to the development plan Saved Policy QL1 and emerging Policy SP1.

- 2 Paragraph 109 of the National Planning Policy Framework (2018) states development should be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy TR1a of the Saved Local Plan states that proposals for development affecting highways will be considered in relation to the road hierarchy to reducing and preventing hazards and inconvenience to traffic, and to the effects on the transport system.

There is insufficient information to demonstrate that the proposed works can be developed without resulting in an intensification of use of the site without adequate turning facilities for the proposed dwelling; the proposal would therefore result in vehicles reversing into the highway to the detriment of highway safety, and therefore fails to accord with the above policy.

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 Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.