

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	17/09/18
Planning Development Manager authorisation:	AN	25/9/18
Admin checks / despatch completed	PN	25/9/18

Application: 18/01265/FUL **Town / Parish:** Frinton & Walton Town Council
Applicant: Beech Hill Property Development
Address: Ernest Luff House Luff Way Walton On The Naze
Development: Construction of 4 almshouse-type one bed dwellings.

1. Town / Parish Council

Frinton & Walton Town Council Approved

2. Consultation Responses

ECC Highways Dept From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. The parking spaces / vehicular hardstandings shall be constructed to minimum dimensions of 5.5m x 2.9m and retained thereafter.
Reason: To encourage the use of off-street parking, 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.

Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall 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 or by post to:

SMO1 - Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

NHS East Essex CCG Please note that North East Essex CCG will not be providing a response to this Planning Application Consultation.

3. Planning History

91/01439/OUT Nursing Home Approved 18.02.1992

93/00121/DETAIL	(Land adjacent 2 Luff Way, Walton on the Naze) Construction of nursing home (details following outline planning permission TEN/91/1439)	Approved	30.03.1993
95/00254/FUL	(2 Luff Way, Walton on the Naze) Store	Approved	07.04.1995
95/00255/FUL	(4 Luff Way, Walton on the Naze) Entrance canopy	Approved	07.04.1995
97/01207/FUL	(2 Luff Way, Walton on Naze) Extension to care home including lift installation	Approved	03.11.1997
97/01208/FUL	(The Ernest Luff Homes, 2 Luff Way, Walton on Naze) Extension to nursing home	Approved	03.11.1997
98/00223/FUL	(The Ernest Luff Homes, 2 Luff Way, Walton on the Naze) Covered Way	Approved	20.03.1998
98/00459/FUL	(The Ernest Luff Homes, 2 Luff Way, Walton on the Naze) Variation to TEN/97/1208 extension to nursing home with additional ground floor window	Approved	18.05.1998
05/01151/FUL	2 rear extensions.	Approved	23.08.2005
05/01748/FUL	Day centre for elderly	Refused	30.11.2005
06/00518/FUL	Day care centre.	Withdrawn	16.05.2006
06/01396/FUL	Day care centre	Approved	05.10.2006
11/00631/FUL	Extension to guest suite.	Approved	05.08.2011
12/00235/FUL	Proposed internal and external alterations to merge 20 suite care bedrooms (C2) into 8no. one bedrooms apartments for assisted living for the elderly (C3a).	Approved	02.05.2012
12/00721/FUL	Variation of condition 06 of planning permission 12/00235/FUL to vary the minimum age of tenants from 65 to 55 years of age.	Approved	17.08.2012
13/00152/DISCON	Discharge of condition 2 of planning permission 12/00235/FUL - Details of parking and deliveries - FOR INFORMATION ONLY.	Approved	15.03.2013

15/00384/FUL	Internal alterations, small extensions, partial demolition, alteration of windows, doors and fenestration to improve the home.	Approved	18.05.2015
15/30091/PREAPP	Residential development.		11.05.2015
17/01080/FUL	Construction of 12 almshouse-type one bed dwellings.	Approved	28.09.2017
18/00092/FUL	Construction of 4 almshouse-type one bed dwellings.	Refused	20.07.2018
18/00201/FUL	Erection of timber summer house in garden of care home.	Approved	10.04.2018
18/00335/FUL	Variation of conditions 5 (Landscaping), 9 (Drainage) & 10 (Materials) of approved planning application 17/01080/FUL, to allow the demolition of the existing building in advance of the submission of the details of Landscaping, Drainage and Building Materials, in relation to the construction of 12 almshouse-type one bed dwellings.	Approved	15.05.2018

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

COM3 Protection of Existing Local Services and Facilities

COM6 Provision of Recreational Open Space for New Residential Development

COM26 Contributions to Education Provision

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

QL1 Spatial Strategy

- QL2 Promoting Transport Choice
- 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)

- HP5 Open Space, Sports & Recreation Facilities
- LP5 Affordable and Council Housing
- PP12 Improving Education and Skills
- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Strategy for North Essex
- SP6 Place Shaping Principles
- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- 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 located on the corner of Luff Way and Garden Road within the Parish of Walton-on-the-Naze. The site comprises a single storey block of accommodation that was used in conjunction with the Ernest Luff Home but no longer meets modern standards, and a car park to the front of the site accessed via the Triangle car park to the south.

The character of the surrounding area is relatively urban, with the remainder of the care home premises to the west and north, the Community Centre and Triangle Shopping Centre to the south and residential dwellings further out to all sides. The site falls within the Settlement Development Boundary for Frinton-on-Sea within both the Tendring District Local Plan 2007 and the Emerging 2013-2033 Tendring Local Plan Publication Draft.

Proposal

This application seeks planning permission for the construction of four Alms-house style one bedroom dwellings following the demolition of the existing building.

The applicant has indicated that the dwellings would be for occupation by older members of the community, particularly for the over-70's who require a smaller dwelling but wish to maintain their independence, and that a planning condition limiting the occupation to over 60's would be welcomed.

History

Under planning reference 17/01080/FUL, permission was granted for the construction of 12 Alms-house style dwellings of a matching design to this current application. The dwellings were located directly adjacent to the west, following the demolition of the main building.

Under planning reference 18/00092/FUL, the same proposal to that being applied for within this application was applied for. It was refused on the grounds that the four dwellings being applied for and the 12 dwellings previously approved under 17/01080/FUL constituted a sub-division of a single site and therefore resulted in a total of 16 units. Therefore affordable housing provision should have been accounted for; however a completed Section 106 obligation to secure this affordable housing was not provided.

Within the submitted plans for this application, the agent has supplied additional information to explain the application site is owned by a separate company from the adjoining land subject to

17/01080/FUL, with a copy of the land ownership which shows the land was transferred 15 September 2017. However, the access to the site remains in the ownership of Bilaman Ltd, who own the site granted permission for 12 dwellings under 17/01080/FUL on 28 September 2017.

Assessment

1. Principle of Development

The site is situated within the defined settlement limits of Frinton-on-Sea as defined by both the adopted Tendring District Local Plan (2007) and emerging Publication Draft (2017) and therefore the principle of residential development in this location is acceptable subject to the detailed considerations as set out below.

Furthermore, Policy COM3 of the Tendring Local Plan 2007 states that in order to ensure that basic community facilities and local services are retained, redevelopment that would result in their loss will not be permitted unless replacement facilities are provided within a reasonable walking distance, or there is adequate provision of similar facilities within reasonable walking distance (800m), or it has been demonstrated that there is no longer a local need for the facility or it is no longer viable.

Under previous planning permission 17/01080/FUL it was noted that for the adjacent building to the west, whilst the site had not been marketed there were alternative community facilities nearby. Given the close proximity of the site in question for this application, the same principle applies, with a number of nearby similar community facilities; the hall within the Homelands Free Church 55m to the south, the community centre within the Triangle Shopping Centre approximately 120m to the south-west, a Primary School along Elm Tree Avenue approximately 250m to the west, and a Secondary School along Rochford Way approximately 275m to the south.

Therefore, it has been successfully demonstrated that as a result of the proposed development, similar facilities of equal benefits will be sited within reasonable walking distance, and the proposal meets the requirements of Policy COM3.

2. Design, Layout 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 four bungalows are to be sited to the north-east of the site, accessed via the existing access point to the south of the site. The site is highly prominent along Luff Way and in particular along Garden Road. The existing building line running from north to south along this section of Garden Road is relatively strong and linear, however the existing semi-detached properties are set back further south and therefore whilst the proposed dwellings will be sited slightly further back still this continues the existing pattern of development and is not out of character in this location.

In terms of the design of the bungalows, they are of an attractive Alms-House type design, utilising key features to break up the overall bulk, including front gabled canopy areas and chimneys. Further they will be in-keeping with those bungalows previously approved adjacent to the west under planning reference 17/01080/FUL, whilst the proposed use of facing brick and concrete roof tile is also considered acceptable.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of one bedroom should be a minimum of 50 square metres. Whilst the proposal does not quite meet this criteria for all four bungalows, as per the previous permission adjacent to the west it is acknowledged that the elderly tend to prefer smaller gardens and therefore provided the development is specifically for the elderly (the over 60's) this is appropriate. This could be conditioned accordingly.

3. Impact to Residential Amenity

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 development would retain sufficient spacing to the surrounding dwellings, including those 12 approved to the west, to ensure that there would be no adverse impacts in respect of loss of light and outlook. Further, the single storey nature of the bungalows will ensure no overlooking concerns.

4. Highway Considerations

Essex County Council as the Highways Authority have been consulted and raise no objections.

Furthermore, Adopted Car Parking Standards state that for a dwelling of one bedroom, provision should be made for a minimum of one parking spaces measuring 5.5m x 2.9m or a garage, if being used as one of the parking space, should have a minimum internal measurement of 7m x 3m. The submitted plans demonstrate that the each of the four bungalows will have one parking space that meet the above measurements.

5. Legal Obligations

Policy COM6 in the adopted Local Plan and Policy HP5 of the emerging Local Plan require residential developments to make financial contributions toward off-site play provision. However, this requirement does not extend to dwellings that are served by one bedroom, and therefore no contribution is required on this occasion.

Policy HG4 in the adopted Local Plan housing development for 15 or more dwellings/ over 0.5 hectares in towns (such as this) to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on sites of 11 or more homes to be made available for affordable or Council Housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement.

Since planning permission was refused for the same scheme under reference number 18/00092/FUL, the agent for the application has supplied additional information to explain the application site is owned by a separate company from the adjoining land subject to 17/01080/FUL, with a copy of the land ownership which shows the land was transferred 15 September 2017. The access to the site remains in the ownership of Bilaman Ltd, who own the adjacent site granted permission for 12 dwellings under 17/01080/FUL. Whilst the Council does not dispute the land ownership information provided it is clear the transfer of the sites ownership took place throughout the determination of 17/01080/FUL (decision issued 28 September 2017), which further strengthens the Councils' position that there is a clear link between the two sites and they should be considered as part of a single larger development.

Appeal decision APP/P1560/W/18/3195412 (Land rear of 683 St Johns Road, Clacton-on-Sea) recently dismissed the erection of 14 dwellings that were sited adjacent to land that had previously been granted planning permission for a further 14 dwellings (planning reference 15/00899/FUL) where no affordable housing provision had been allocated. The inspector stated "*The 14 bungalows would be on land adjacent to a consented development, yet to be developed and for the same number of dwellings, and would be served by a continuation of the shared estate road from St Johns Road.*" and therefore concluded the development would be contrary to the aspirations of Policy HG4.

More nationally, this stance is supported; under Appeal decision APP/K0425/W/17/3192287 (42-44 West Wycombe Road, High Wycombe), for a scheme of 14 dwellings adjacent to land that had already been granted planning permission for additional dwellings. In this instance the inspector stated *"In my judgement, taking account of inter alia, the shared access arrangements and the coordinated design approach, I find that the appeal site and No 46 should be considered as a larger developable area"* and therefore given that no affordable housing contribution had been provided for a total development in excess of 15 dwellings, concluded that the appeal should be dismissed. It is notable that the design of the current proposal mimics that of 17/01080/FUL, further reinforcing the view that they form one larger redevelopment proposal.

It is therefore considered that this application and that previously approved under planning reference 17/01080/FUL constitute a sub-division of a single site and therefore result in a total of 16 units. Whilst it has been demonstrated the current owner of the site differs to that of the adjacent land, the applicant for 17/01080/FUL was Bilaman Ltd who is still shown as the owner of the site access on Certificate B of this application. The above policies are therefore applicable and if minded to approve this application, up to five of the proposed properties would need to be secured for affordable housing purposes through a s106 legal agreement.

Policy COM26 of the adopted Local Plan states where necessary planning permission will only be granted for residential developments of 12 or more dwellings if land and/or financial contributions are made to provide the additional school places that will be needed to service the development. Policy PP12 of the emerging Local Plan states planning permission will not be granted for new residential development unless the individual or cumulative impacts of development on education provision can be addressed, at the developer's cost, either on-site or through financial contributions towards off-site improvements. Given that the proposal will be restricted for elderly residents aged 60 and over and comprises only one bedroom, financial contributions towards educational facilities are not necessary on this occasion.

A completed Section 106 obligation to secure the affordable housing contribution has not been provided prior to the application determination date and the application is therefore contrary to the above policies.

Other Considerations

Frinton and Walton Town Council recommend approval.

No further letters of representation have been received.

6. Recommendation

Refusal.

7. Reason for Refusal

- 1 The National Planning Policy Framework (2018) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be sought where they meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

Policy HG4 in the adopted Local Plan housing development for 15 or more dwellings/ over 0.5 hectares in towns (such as this) to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on sites of 11 or more homes to be made available for affordable or Council Housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement.

It is considered that this application and that previously approved under planning reference 17/01080/FUL constitute a sub-division of a single site and therefore result in a total of 16 units. The above policies are therefore applicable and therefore need to provide for affordable housing through a s106 legal agreement.

A completed Section 106 obligation to secure this affordable housing has not been provided prior to the application determination date and the application is therefore contrary to the above policies.

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. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.