

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	01/10/18
Planning Development Manager authorisation:	AN	8/10/18
Admin checks / despatch completed	SB	08/10/18

Application: 18/01340/OUT **Town / Parish:** Tendring Parish Council

Applicant: James Spear

Address: The Beeches Heath Road Tendring

Development: Proposal to build 4 bedroom detached property including built in double garage.

1. Town / Parish Council

Tendring Parish Council No comment.

2. Consultation Responses

Tree & Landscape Officer The application site and adjacent land are reasonably well populated with trees although, in the main, they are set back from the highway. They contribute to the visual backdrop for the existing ribbon development but, because of their positions, have only moderate visual amenity value.

The most important trees on the application site are a group of Silver Birch to the northern end of the land, towards the western boundary and are growing as a cohesive group of young trees. Whilst it would be desirable for them to be retained their amenity value is not so great that the merit protection by means of a tree preservation order.

The other tree that features prominently is a large Ash, just off-site, to the east of the application site. This tree is showing significant die-back in its crown and because of the onset of 'Ash Dieback' (a nationwide fungal pathogen affecting Ash) is unlikely to be viable in the long term.

Although at the outline stage the proposed layout appears to leave little scope for new soft landscaping however, any opportunity to secure new tree or shrub planting should be maximised to improve the quality of the development for future residents and to ensure that the dwellings sit comfortably in their rural setting.

In terms of the overall impact of the development on the character of the area: the creation of a long access road appears to be out of keeping with the existing development pattern and will not result an improvement to the appearance of the street scene.

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 would lead to the intensification of use of a sub standard access by reason of insufficient vehicular visibility splays contrary to the interests

3. Planning History

98/00398/FUL	Ground floor extension	Approved	12.05.1998
16/00310/OUT	Erection of one three bedroom detached house and erection of one four bedroom detached house.	Withdrawn	09.05.2016

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

EN1 Landscape Character

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

PPL3 The Rural Landscape

SPL1 Managing Growth

SPL3 Sustainable Design

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 south-east of a property named 'The Beeches', located to the southern section of Heath Road within the parish of Tendring. The site is set within a semi-rural locale, with a pocket of urban built form to the north-west in particular, whilst further out the character becomes more rural with large areas of grassed and agricultural land. The site itself is well populated with mature vegetation.

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 outline planning permission with all matters reserved for the erection of a single detached dwelling.

Local History

Under planning references 17/02140/OUT and 18/01093/OUT permission was refused for five dwellings approximately 40m to the west, on the grounds that the site lies outside of a settlement boundary, would impact the openness of the surrounding landscape in terms of the long narrow driveway and the five future dwellings, and would be a danger to highway safety.

Under planning reference 17/01091/FUL, planning permission was refused for the erection of three dwellings and a micro-pub, following the demolition of 'The Fat Goose' pub/restaurant. Recent planning appeal reference APP/P1560/W/17/3189713 overturned this decision. The inspector concluded that despite the proposal being located outside of a recognised Settlement Development Boundary, the proposal including a micro-pub ensured the site was considered sustainable, whilst there was not significant identifiable harm to the character of the area.

Assessment

1. Principle of development

The site lies outside of a defined Settlement Development Boundary as defined by both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). 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.

Tendring 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) Tendring is identified as a smaller rural settlement with no primary school, GP Surgery, defined village centre, defined employment area, railway station or good bus route. Tendring is therefore classed as one of the District's lowest scoring settlements in terms of its sustainability credentials. The recent closure of the Fat Goose Public House further reduces the social credentials of the site. 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 development involves the construction of one detached dwelling in a 'backland' location to the rear of the established residential frontage along Heath 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 the proposed dwelling and the existing dwellings adjacent to the north-west 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.
- (iii) - the private access would be located on the eastern side of The Beeches. Whilst there will be a slight degree of noise disturbance to occupants of The Beeches, the comings and goings associated with one additional dwelling are not considered to be excessive. However, the site would be accessed via a long driveway, measuring approximately 50 metres, and would represent a form of tandem development which would appear out of character with the existing development pattern, to the visual detriment to the existing street scene.

(iv) - whilst the layout indicates 'tandem development' as highlighted above, 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 east, north and west.

(vii) - There are a number of residential properties forming to the west in particular. However the application site is located to the south of this existing pattern of development and would appear out of character with the surrounding land, whilst the introduction of built form on this undeveloped countryside would also set a harmful precedent for further development to the east and west, to the serious detriment of 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 application is in outline form with all matters reserved and therefore detailed plans do not form part of the determination of this application, and as such no elevational drawings have been submitted. However, the submitted plans do suggest any future dwelling could be two storeys and provide an indicative layout. There is no principle objection to a two storey property, which would be in-keeping with the existing character. Design within any future application should look to be in-keeping and not detrimental to the character of the surrounding area. However as previously highlighted, it is considered that a dwelling of any design in this location will appear at odds with the existing pattern of development, creating a harmful appearance and likely setting an unwanted precedent.

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 information that has been supplied indicates the dwelling is to be served by four bedrooms. There is sufficient space within the plot and that of the adjacent plots to the north-west to meet the above requirements.

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).

Whilst the application is in outline form with all matters reserved, the submitted plans do provide an indicative layout and suggest the future dwelling will be two storeys. Given its indicative siting in close proximity to the private garden area of 'The Beeches', there is likely to be significant overlooking issues. Therefore, in the event of a detailed application being submitted, it would be suggested that the dwelling is either single storey or sited further to the south away from the neighbouring garden area.

5. Highways

Essex County Council Highways have been consulted as part of the process of this application and object to the proposal as it would lead to the intensification of use of a substandard access by reason of insufficient vehicular visibility splays, which runs contrary to the interests of highway safety.

6. Tree Impacts

The application site and adjacent land are reasonably well populated with trees which in the main are set back from the highway and contribute to the visual backdrop for the existing ribbon development; however due to their positioning only have moderate visual amenity value.

The most important trees are a group of Silver Birch to the northern section of the land towards the western boundary; whilst it would be desirable for these to be retained their amenity value does not warrant protection by means of a Tree Preservation Order.

To the east of the site is a large Ash Tree, which is showing significant die-back in its crown and is therefore unlikely to be viable in the long term.

Whilst there appears to be little scope for new soft landscaping, any opportunity to secure new tree or shrub planting should be maximised to help improved the quality of the development and to ensure it sits more comfortably within its rural setting. Therefore had this application been recommended for approval, a condition to reflect this would have been attached.

Other Considerations

Tendring Parish Council has not commented upon the application.

There have been no other letters of representation received.

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 a defined Settlement Development Boundary as defined by both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). 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 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.

Tendring 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) Tendring is identified as a smaller rural settlement with no primary school, GP Surgery, defined village centre, defined employment area, railway station or good bus route. Tendring is therefore classed as one of the District's lowest scoring settlements in terms of its sustainability credentials. The recent closure of the Fat Goose Public House further reduces the social credentials of the site. 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 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 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 124 is to always seek to secure high quality design. Policy QL9 and EN1 of the Tendring District Local Plan 2007 (Saved Plan) and Policy PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) seeks to ensure that development is appropriate in its locality and does not harm the character and appearance of the rural landscape.

Policy HG13 (iii) of the 2007 Local Plan, and echoed in Policy LP8 (b) of the Emerging Local Plan, states that for backland development a safe and convenient means of vehicular and pedestrian access/egress must be provided that is not likely to cause visual detriment to the street scene, with long or narrow driveways in particular discouraged.

Policy HG13 (vii) of the Adopted 2007 Local Plan states that proposals for residential development of 'backland' sites will only be permitted if the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development. These sentiments are echoed within Policy LP8 (f) of Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

There are a number of residential properties forming to the west in particular. However the application site is located to the south of this existing pattern of development and would appear out of character due to its siting behind the existing frontage development, whilst the

introduction of built form within this garden area would also set a harmful precedent for further development to the east and west.

Further, the site would be accessed via a long driveway, measuring approximately 50 metres, and would represent a form of backland development which would appear out of character with the existing development pattern, to the serious visual detriment to the existing character of the surrounding area.

The proposal thereby fails to accord with the above local and national policy requirements.

- 3 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.

The proposed works will directly lead to the intensification of use of a substandard access by reason of insufficient vehicular visibility splays, contrary to the interests of highway safety, and therefore fails to comply with the policies above.

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.