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## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	24/10/18
Planning Development Manager authorisation:	AN	29/10/18
Admin checks / despatch completed	CDyer SB	29/10/18

**Application:** 18/01457/DETAIL **Town / Parish:** Mistley Parish Council

**Applicant:** Mrs C Reidy

**Address:** Land adjacent Fairview Heath Road Mistley

**Development:** Reserved matters application for the erection of one detached dwelling.

### 1. Town / Parish Council

Mistley Parish Council

Mistley Parish Council makes no comment on this planning application.

### 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. Prior to first occupation of the proposed development, the proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

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

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

3. Prior to the proposed access being brought into use, vehicular visibility splays of site maximum by 2.4m by site maximum as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

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



2011.

4. The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in Drawing Annotated Block Plan Rev B. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

5. Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

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

6. No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

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

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.

Tree & Landscape Officer

The main body of the application site does not contain any trees or other significant vegetation. There are several trees on the site boundaries and on adjacent land that do not unduly constrain the development potential of the land.

The boundary with the highway is demarcated by an established hedgerow and a single Lombardy Poplar. The Poplar is a mature specimen that has been reduced by approximately 50% several years ago and has regrown strongly. There are likely to be pockets of decay in the old pruning wounds. The tree makes a good contribution to the appearance of the area and is shown on the site plan as retained. It will be important to retain this tree.



The Planning Statement submitted by the applicant states that the existing hedgerow adjacent to the boundary with the highway will be removed in order to facilitate vehicular access to the site.

Section 8 of the Planning Statement makes reference to replacement hedgerow planting however a more detailed specification will be required prior to the determination of the application. Details of the indicative tree planting shown on the Block Plan will also need to be provided prior to the determination of the application

Building Control and  
Access Officer

No comments

### 3. Planning History

13/00334/FUL	Erection of dwelling and detached garage.	Approved	09.07.2013
13/01189/FUL	Erection of dwelling and detached garage (amended scheme pursuant to implemented planning permission 13/00334/FUL).	Approved	16.12.2013
17/01124/OUT	Erection of one detached dwelling.	Refused	30.08.2017
17/01808/OUT	Erection of one detached dwelling.	Refused (Won at appeal)	11.12.2017

### 4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

EN1 Landscape Character

EN5A Area Proposed as an Extension to the Suffolk Coasts and Heaths AONB

HG1 Housing Provision

HG9 Private Amenity Space

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

LP3 Housing Density and Standards

LP4 Housing Layout

SPL1 Managing Growth

SPL3 Sustainable Design

PPL3 The Rural Landscape

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, which measures 0.10 hectares, is land adjacent to Fairview, Heath Road, Mistley. The character of the surrounding area is relatively rural, with large areas of open agricultural land further to the east and west particularly, although there are examples of some urban built form in the immediate vicinity of the site, namely to the south along Heath Road. The site does not fall within a recognised Settlement Development Boundary, as agreed in both the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft. The site also lies within an Area proposed as an Extension to the Suffolk Coast and Heath AONB and also within a Coastal Protection Belt within the Adopted Tendring Local Plan 2007 only.

### Description of Proposal

This application is a reserved matters application only and deals with all matters reserved from the previous outline permission 17/01808/OUT; namely access, appearance, landscaping, layout and scale.

The proposal seeks one detached dwelling, being served by four bedrooms.

### History

Under planning reference 17/01124/OUT, planning permission was refused for a single detached dwelling, due to the Council being able to demonstrate a five year housing supply and the site falling outside of a recognised Settlement Development Boundary, and also within one of the Districts smaller rural settlements.

This view was again maintained in the refusal of 17/01808/OUT for one dwelling; however under appeal reference APP/P1560/W/17/3187415 this decision was allowed, with the inspector stating that on balance the adverse impacts do not significantly and demonstrably outweigh the benefits of the proposal.

### Assessment

#### 1. 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 submitted plans show the detached dwelling is to be sited to the north of Fairview, and will be accessed via Heath Road to the west. Due to being sited equidistant between two existing residential dwellings, the proposal will not appear particularly prominent from views from either the north or south.

The dwelling is to be sited broadly in line with Kebunteh to the north and Fairview to the south. The building line to this eastern section of Heath Road is not particularly strong, with only a handful of dwellings; however those dwellings are closely related to the application site and it is felt the additional dwelling would relate well and help to develop a pattern of development. There are therefore no principle concerns regarding the dwellings siting.



Whilst there are few dwellings to this section of Heath Road, it is acknowledged there is a semi-rural character, with the nearby dwellings being two storeys and incorporating a mixed use of cream render, brick plinths and front gables. The proposed dwelling will adhere to this character, and incorporates features such as a front gable and bay window, a chimney and window details. It is therefore considered the dwelling is of a design befitting its semi-rural location and will assimilate well within its surroundings.

Policy HG9 of the Saved Tendring Local Plan 2007 states that the private amenity space for a dwelling with three bedrooms or more should be a minimum of 100sqm. The plans demonstrate that this level of private amenity space can comfortably be accommodated.

## 2. 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).

In terms of the impacts to neighbouring amenities, the adjacent neighbours to the north and south are located approximately 15m and 10m respectively. This separation distance ensures that the dwelling will not appear overly imposing, especially given there is stables on the site currently, and will also not result in a significant loss of light. Further, in terms of overlooking the dwelling has been designed to ensure the only first floor side elevation windows that would have direct views to either neighbouring garden are to serve a bathroom and en-suites. To the rear elevation there are first floor windows, and a Juliet Balcony, however these would only allow views to the rear of neighbouring gardens, areas less likely to be regularly occupied. Therefore, the harm identified to existing amenities is not detrimental enough to warrant a reason for refusal.

## 3. Highway Safety

Essex County Council as the Highway Authority has been consulted on the application and has stated that they have no objections subject to a number of conditions relating to visibility splays, the access width, the use of no unbound materials and the submission of a Construction Method Statement.

A condition was also requested for storage of bicycles; however given the site is of a sufficient size to accommodate bicycle storage, this condition is not considered reasonable or necessary on this occasion.

Furthermore, the Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. Whilst the proposed garage does not meet the above requirements, there is sufficient space to the front of the dwelling to accommodate the necessary parking requirements.

## 4. Trees and Landscapes

The application site does not contain any trees or significant vegetation, while trees on the site boundaries on adjacent land do not unduly constrain the development potential of the land.

The boundary with the highway is demarcated by an established hedgerow and a single Lombardy poplar that makes a positive contribution to the appearance of the area. This tree is shown as retained on the plans.

Initially there were concerns that the replacement hedgerow planting to the boundary with the highway was not detailed enough. However, additional information supplied by the agent for the application has provided these more detailed specifications, and the Council's Tree and Landscapes Officer has confirmed this is now acceptable.



Policy EN5a of the Adopted Tendring Local Plan 2007 is an area which the Council and Essex County Council has put forward as an extension to the Suffolk Coast and Heaths AONB and that the Council will seek to protect the natural beauty of the landscape within this area, and views towards it.

The site is situated within an area proposed as an extension to an Area of Outstanding Natural Beauty. However, it is also considered that in this instance the site would be set against existing development to the north and south, whilst a large 135 dwelling development has been granted outline permission to the west (reference 15/01520/OUT), and a single dwelling (planning reference 13/01189/FUL) has been granted permission to the north. Further the design and layout is in-keeping with the existing adjacent development and as a result would not see significant harm to the existing character of the area.

#### Other Considerations

Mistley Parish Council makes no comment on the application.

There has been one letter of objection received, with concerns upon the impacts to neighbouring amenities. In answer to this, this has been addressed within the main body of the report above.

#### Conclusion

In the absence of any significant harm as a result of the proposed development, the application is recommended for approval.

### **6. Recommendation**

Approval.

### **7. Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans, the untitled Site Location Plan, drawing number RFV-NB-01 Revision B, the document titled 'Planting Specification' and the untitled plan showing the siting of the proposed soft landscaping received 23 October 2018.

Reason - For the avoidance of doubt and in the interests of proper planning.

- 3 Prior to first occupation of the proposed development, the proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason - To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.

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

Reason - To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

- 5 Prior to the proposed access being brought into use, vehicular visibility splays of site maximum by 2.4m by site maximum as measured along, from and along the nearside edge



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of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

- 6 The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in Drawing RFV-NB-01 Rev B. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason - To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 7 No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

## 8. Informatives

### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



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## TENDRING DISTRICT COUNCIL

### Planning Services

Council Offices, Thorpe Road, Weeley, Clacton-on-Sea, Essex CO16 9AJ

<b>AGENT:</b>	Mr Peter Le Grys - Stanfords Stanfords The Livestock Market Wyncolls Road Colchester CO4 9HU	<b>APPLICANT:</b>	Mrs C Reidy C/O Agent
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### TOWN AND COUNTRY PLANNING ACT 1990

**APPLICATION NO:** 18/01457/DETAIL

**DATE REGISTERED:** 3rd September 2018

Proposed Development and Location of Land:

**Reserved matters application for the erection of one detached dwelling.  
Land adjacent Fairview Heath Road Mistley**

THE TENDRING DISTRICT COUNCIL AS LOCAL PLANNING AUTHORITY **GRANT APPROVAL OF RESERVED MATTERS** pursuant to Outline Planning Permission No. in accordance with the application form, supporting documents and plans submitted subject to the following conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
  
Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans, the untitled Site Location Plan, drawing number RFV-NB-01 Revision B, the document titled 'Planting Specification' and the untitled plan showing the siting of the proposed soft landscaping received 23 October 2018.  
  
Reason - For the avoidance of doubt and in the interests of proper planning.
- 3 Prior to first occupation of the proposed development, the proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.  
  
Reason - To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.
- 4 No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.  
  
Reason - To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.
- 5 Prior to the proposed access being brought into use, vehicular visibility splays of site

# INTERNATIONAL DISTRICT COUNCIL

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Local Districts

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maximum by 2.4m by site maximum as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason - To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

- 6 The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in Drawing No. RFV-NB-01 Rev B. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason - To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 7 No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

**DATED:** 29th October 2018

**SIGNED:**




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Catherine Bicknell  
Head of Planning

**IMPORTANT INFORMATION :-**

The local planning authority considers that the following policies and proposals in the development plan are relevant to the above decision:

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

EN1 Landscape Character

EN5A Area Proposed as an Extension to the Suffolk Coasts and Heaths AONB

HG1 Housing Provision

HG9 Private Amenity Space

HG14 Side Isolation

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- 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
- LP3 Housing Density and Standards
- LP4 Housing Layout
- SPL1 Managing Growth
- SPL3 Sustainable Design
- PPL3 The Rural Landscape

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Standard Informative 1: The Provisions of the Essex Act 1987, Section 13 (Access for the Fire Brigade) may apply to this Development and will be determined at Building Regulation Stage.

Standard Informative 2: You are reminded that the carrying out of building works requires approval under the Building Regulations in many cases as well as a grant of planning permission. If you are in doubt as to whether or not the work, the subject of this planning permission, requires such approval, then you are invited to contact the Building Control section at Tendring District Council.

Standard Informative 3: If the development includes the construction of a new building on or at the boundary of 2 properties, work to an existing party wall or party structure or involve excavation near to and below the foundation level of neighbouring buildings, you are advised that the provisions of the Party Wall Act 1996 may apply to this development. An explanatory booklet concerning the implications of this Act is available online or from the District Council.

**The attached notes explain the rights of appeal.**

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## NOTES FOR GUIDANCE

### WHEN PLANNING PERMISSION IS REFUSED OR GRANTED SUBJECT TO CONDITIONS

#### APPEALS TO THE SECRETARY OF STATE

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.
- If you want to appeal, then you must do so within the set time frame as outlined below:
  - a. If this is a decision to refuse planning permission for a householder application, if you want to appeal against your local planning authority's decision then you must do so within **12 weeks** of the date of this notice. A **Householder Appeal Form** is required, available online at <https://www.gov.uk/planning-inspectorate>
  - b. If this is a decision to refuse planning permission for a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within **12 weeks** of the date of this notice. A **Planning Appeal Form** is required, available online at <https://www.gov.uk/planning-inspectorate>
  - c. If you want to appeal against your local planning authority's decision on a development which is not caught by a. and b. above then you must do so within **6 months** of the date of this notice. A **Planning Appeal Form** is required, available online at <https://www.gov.uk/planning-inspectorate>
- Appeals must be made using the relevant form (as detailed above) which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel: 0303 444 5000) or online at <https://www.gov.uk/planning-inspectorate>. **Please note, only the applicant possesses the right of appeal.**
- The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted permission for the proposed development or could not have granted it without the conditions imposed having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based its decision on a direction given by the Secretary of State.

#### ENFORCEMENT

- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.





- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of service of the enforcement notice, or within 6 months (12 weeks in the case of a householder or minor commercial appeal) of the date of this notice, whichever period expires earlier.





## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	24/10/18
Planning Development Manager authorisation:	AN	29/10/18
Admin checks / despatch completed	CDyer SBJ	29/10/18 29/10/18

**Application:** 18/01457/DETAIL **Town / Parish:** Mistley Parish Council

**Applicant:** Mrs C Reidy

**Address:** Land adjacent Fairview Heath Road Mistley

**Development:** Reserved matters application for the erection of one detached dwelling.

### 1. Town / Parish Council

Mistley Parish Council      Mistley Parish Council makes no comment on this planning application.

### 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. Prior to first occupation of the proposed development, the proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

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

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

3. Prior to the proposed access being brought into use, vehicular visibility splays of site maximum by 2.4m by site maximum as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

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



2011.

4. The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in Drawing Annotated Block Plan Rev B. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

5. Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

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

6. No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

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

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.

Tree & Landscape Officer

The main body of the application site does not contain any trees or other significant vegetation. There are several trees on the site boundaries and on adjacent land that do not unduly constrain the development potential of the land.

The boundary with the highway is demarcated by an established hedgerow and a single Lombardy Poplar. The Poplar is a mature specimen that has been reduced by approximately 50% several years ago and has regrown strongly. There are likely to be pockets of decay in the old pruning wounds. The tree makes a good contribution to the appearance of the area and is shown on the site plan as retained. It will be important to retain this tree.



The Planning Statement submitted by the applicant states that the existing hedgerow adjacent to the boundary with the highway will be removed in order to facilitate vehicular access to the site.

Section 8 of the Planning Statement makes reference to replacement hedgerow planting however a more detailed specification will be required prior to the determination of the application. Details of the indicative tree planting shown on the Block Plan will also need to be provided prior to the determination of the application

Building Control and  
Access Officer

No comments

### 3. Planning History

13/00334/FUL	Erection of dwelling and detached garage.	Approved	09.07.2013
13/01189/FUL	Erection of dwelling and detached garage (amended scheme pursuant to implemented planning permission 13/00334/FUL).	Approved	16.12.2013
17/01124/OUT	Erection of one detached dwelling.	Refused	30.08.2017
17/01808/OUT	Erection of one detached dwelling.	Refused (Won at appeal)	11.12.2017

### 4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

EN1 Landscape Character

EN5A Area Proposed as an Extension to the Suffolk Coasts and Heaths AONB

HG1 Housing Provision

HG9 Private Amenity Space

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

LP3 Housing Density and Standards

LP4 Housing Layout

SPL1 Managing Growth

SPL3 Sustainable Design

PPL3 The Rural Landscape

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, which measures 0.10 hectares, is land adjacent to Fairview, Heath Road, Mistley. The character of the surrounding area is relatively rural, with large areas of open agricultural land further to the east and west particularly, although there are examples of some urban built form in the immediate vicinity of the site, namely to the south along Heath Road. The site does not fall within a recognised Settlement Development Boundary, as agreed in both the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft. The site also lies within an Area proposed as an Extension to the Suffolk Coast and Heath AONB and also within a Coastal Protection Belt within the Adopted Tendring Local Plan 2007 only.

### Description of Proposal

This application is a reserved matters application only and deals with all matters reserved from the previous outline permission 17/01808/OUT; namely access, appearance, landscaping, layout and scale.

The proposal seeks one detached dwelling, being served by four bedrooms.

### History

Under planning reference 17/01124/OUT, planning permission was refused for a single detached dwelling, due to the Council being able to demonstrate a five year housing supply and the site falling outside of a recognised Settlement Development Boundary, and also within one of the Districts smaller rural settlements.

This view was again maintained in the refusal of 17/01808/OUT for one dwelling; however under appeal reference APP/P1560/W/17/3187415 this decision was allowed, with the inspector stating that on balance the adverse impacts do not significantly and demonstrably outweigh the benefits of the proposal.

### Assessment

#### 1. 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 submitted plans show the detached dwelling is to be sited to the north of Fairview, and will be accessed via Heath Road to the west. Due to being sited equidistant between two existing residential dwellings, the proposal will not appear particularly prominent from views from either the north or south.

The dwelling is to be sited broadly in line with Kebunteh to the north and Fairview to the south. The building line to this eastern section of Heath Road is not particularly strong, with only a handful of dwellings; however those dwellings are closely related to the application site and it is felt the additional dwelling would relate well and help to develop a pattern of development. There are therefore no principle concerns regarding the dwellings siting.



Whilst there are few dwellings to this section of Heath Road, it is acknowledged there is a semi-rural character, with the nearby dwellings being two storeys and incorporating a mixed use of cream render, brick plinths and front gables. The proposed dwelling will adhere to this character, and incorporates features such as a front gable and bay window, a chimney and window details. It is therefore considered the dwelling is of a design befitting its semi-rural location and will assimilate well within its surroundings.

Policy HG9 of the Saved Tendring Local Plan 2007 states that the private amenity space for a dwelling with three bedrooms or more should be a minimum of 100sqm. The plans demonstrate that this level of private amenity space can comfortably be accommodated.

## 2. 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).

In terms of the impacts to neighbouring amenities, the adjacent neighbours to the north and south are located approximately 15m and 10m respectively. This separation distance ensures that the dwelling will not appear overly imposing, especially given there is stables on the site currently, and will also not result in a significant loss of light. Further, in terms of overlooking the dwelling has been designed to ensure the only first floor side elevation windows that would have direct views to either neighbouring garden are to serve a bathroom and en-suites. To the rear elevation there are first floor windows, and a Juliet Balcony, however these would only allow views to the rear of neighbouring gardens, areas less likely to be regularly occupied. Therefore, the harm identified to existing amenities is not detrimental enough to warrant a reason for refusal.

## 3. Highway Safety

Essex County Council as the Highway Authority has been consulted on the application and has stated that they have no objections subject to a number of conditions relating to visibility splays, the access width, the use of no unbound materials and the submission of a Construction Method Statement.

A condition was also requested for storage of bicycles; however given the site is of a sufficient size to accommodate bicycle storage, this condition is not considered reasonable or necessary on this occasion.

Furthermore, the Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. Whilst the proposed garage does not meet the above requirements, there is sufficient space to the front of the dwelling to accommodate the necessary parking requirements.

## 4. Trees and Landscapes

The application site does not contain any trees or significant vegetation, while trees on the site boundaries on adjacent land do not unduly constrain the development potential of the land.

The boundary with the highway is demarcated by an established hedgerow and a single Lombardy poplar that makes a positive contribution to the appearance of the area. This tree is shown as retained on the plans.

Initially there were concerns that the replacement hedgerow planting to the boundary with the highway was not detailed enough. However, additional information supplied by the agent for the application has provided these more detailed specifications, and the Council's Tree and Landscapes Officer has confirmed this is now acceptable.



Policy EN5a of the Adopted Tendring Local Plan 2007 is an area which the Council and Essex County Council has put forward as an extension to the Suffolk Coast and Heaths AONB and that the Council will seek to protect the natural beauty of the landscape within this area, and views towards it.

The site is situated within an area proposed as an extension to an Area of Outstanding Natural Beauty. However, it is also considered that in this instance the site would be set against existing development to the north and south, whilst a large 135 dwelling development has been granted outline permission to the west (reference 15/01520/OUT), and a single dwelling (planning reference 13/01189/FUL) has been granted permission to the north. Further the design and layout is in-keeping with the existing adjacent development and as a result would not see significant harm to the existing character of the area.

#### Other Considerations

Mistley Parish Council makes no comment on the application.

There has been one letter of objection received, with concerns upon the impacts to neighbouring amenities. In answer to this, this has been addressed within the main body of the report above.

#### Conclusion

In the absence of any significant harm as a result of the proposed development, the application is recommended for approval.

### **6. Recommendation**

Approval.

### **7. Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans, the untitled Site Location Plan, drawing number RFV-NB-01 Revision B, the document titled 'Planting Specification' and the untitled plan showing the siting of the proposed soft landscaping received 23 October 2018.

Reason - For the avoidance of doubt and in the interests of proper planning.

- 3 Prior to first occupation of the proposed development, the proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason - To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.

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

Reason - To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

- 5 Prior to the proposed access being brought into use, vehicular visibility splays of site maximum by 2.4m by site maximum as measured along, from and along the nearside edge



of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

- 6 The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in Drawing RFV-NB-01 Rev B. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason - To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 7 No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

## 8. Informatives

### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.