

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	12/12/18
Planning Development Manager authorisation:	AN	13/12/18
Admin checks / despatch completed	SB	18/12/18

Application: 18/01322/FUL **Town / Parish:** Frinton & Walton Town Council

Applicant: Mr & Mrs Hennan

Address: Flemish House 59 Second Avenue Frinton On Sea

Development: Erection of a detached one and a half storey dwelling.

1. Town / Parish Council

Frinton and Walton Town Council

REFUSAL – it was considered that Flemish House is a unique building and therefore should retain the spacious garden area which it benefits from. To build an additional property would detract from the special character and from the street scene

2. Consultation Responses

ECC Highways Dept

The Highway Authority observes that the proposed off street parking facilities for the new dwelling are not dimensionally in accord with the current Parking Standards. It is also observed that the off street parking arrangements are totally reliant upon the communal turning facilities being unoccupied and there will be no visitor parking within the site.

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 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.

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 is set to grass and is well screened from view from the highway by two established trees on the boundary, a Willow and a Cedar. Both of these trees are protected by Tendring District Council Tree Preservation Order 99/25/TPO. Some

other trees on the application site are covered by the TPO but are not likely to be affected by the development proposal.

In addition to the protection afforded some of the trees by the Tree Preservation Order all trees with a stem diameter greater than 75mm at a point 1.5m from ground level are afforded formal legal protection as the application site is situated in the Frinton on Sea Conservation Area

The host garden is well populated with trees and shrubs. The trees and the garden itself make a significant positive contribution to the public realm and to the character and appearance of the conservation area.

The applicant has provided a plan entitled Tree Survey and Constraints Plan that appears to be part of a complete tree survey and report. The complete report has not been submitted as part of the supporting documents for the planning application.

Although the plan provided gives an indication of the impact of the development proposal on the trees it will be necessary for a complete tree survey and report to be provided prior to the determination of the application.

The report should include a plan showing the positions of the Root Protection Areas (RPAs) of the trees (as shown on the Tree Survey and Constraints Plan) overlaid with the position of the proposed new dwelling. The report should include details of the crown spread of the trees and may include details of specialist construction techniques were there intended to be an incursion into the RPA of a retained tree.

This information should be in accordance with BS5837: 2012 Trees in relation to design, demolition and construction. Recommendations.

Without this information it will not be possible to properly assess the impact of the development on the trees on the land.

At the present time the application should be refused as it has not been demonstrated that the development could be implemented without causing harm to retained trees or that a satisfactory juxtaposition could be achieved between the trees and the proposed dwelling

Details of soft landscaping proposal should be provided prior to the determination of the planning application or secured by a condition attached to any planning permission that may be granted.

UU Open Spaces

Response from Public Experience

Open Space & Play

Application Details

Application No: 18/01322/FUL

Site Address: Flemish House 59 Second Avenue Frinton On Sea Essex

Description of Development: Erection of a detached one and half storey dwelling

Current Position

There is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton & Kirby. However, there is more than adequate formal open space to cope with some additional development.

Recommendation

A contribution towards play and open space is not required on this occasion.

3. Planning History

00/00278/TPO	T.1 & T.5 - Willow - 30% crown reduction; T.2 - Cedar and T.4 - Silver Birch - top. Reduce fir tree hedging to rear and side of the property to a height of 8' (TPO 99/25)	Refused	22.03.2000
00/01174/TPO	Various works to trees (TPO 99/25)	Approved	16.08.2000
00/01826/OUT	Erection of one dwelling and formation of new vehicular access to Flemish House	Refused	05.01.2001
TPC/97/49	Fell Eucalyptus	Current	24.09.1997
TPC/98/41	Reduce Eucalyptus	Current	28.04.1998
02/00099/TCA	Fell 6 Cuppressess trees, reduce height of 5 Cupresses trees, reduce height of 12 Cuppress Leylandii	Approved	28.02.2002
99/00120/OUT	Erection of one dwelling	Withdrawn	27.03.1999
99/00553/OUT	Erection of one dwelling	Refused	30.06.1999
99/01314/TCA	Fell one multi stemmed Cupressus tree	Approved	03.11.1999
03/02096/TCA	Prune Purple Prunus by reducing crown by 35%, reduce Leylandii hedge, fell 5 Cuppressus, fell 1 Pyracantha, fell 1 apple tree. Reduce Prunus by 25-30%	Approved	10.11.2003
03/02097/TPO	Fell 1 dead Pine. Fell or reduce Poplar	Approved	08.11.2003
06/00161/TCA	1. Fell three dead Rowan Trees 2. Fell one Laburnum 3. Trim Hawthorn 4. Trim one Conifer as it	Approved	28.02.2006

is affecting the telephone wires.

06/00271/TPO	Trim T.1 Willow. Trim T.5 Willow Both trees are growing through adjacent conifers.	Approved	17.03.2006
07/01258/TPO	Group 1 - 1 No. Conifer - fell, 1 No. Poplar - reduce by 30%	Approved	11.09.2007
09/00843/TPO	1 No. Poplar - rear garden - fell.	Approved	11.09.2009
10/00973/FUL	Erection of single detached dwelling and creation of new access.	Refused	19.10.2010
11/60392/HOUEN Q	Installation of solar PV panels on south facing roof on side of property facing the sea		31.08.2011
12/01105/TCA	2 No. Prunus, 1 No. Tulip tree, 1 No. Acer, 2 No. Holly 1 No. Eucalyptus., 1 No. tree (species unknown)- reduce by up to 30%.	Approved	30.10.2012
15/01072/FUL	Erection of new shed.	Approved	08.09.2015
15/01616/TCA	5 No. Prunus, 1 No. Birch, 1 No. Platanus, 1 No. tree - species unknown, 1 No. Holly, 1 No. Acer - reduce by 30%	Approved	17.11.2015
15/01652/TPO	1 No. Willow, 1 No. Cedar - reduce by 30%	Approved	24.11.2015

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

EN17 Conservation Areas

FW5 'The Avenues' Area of Special Character

HG3 Residential Development Within Defined Settlements

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

LP4 Housing Layout

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

PPL3 The Rural Landscape

PPL8 Conservation Areas

PPL12 The Gardens Area of Special Character, Clacton-On-Sea

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 deliver 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 the plan-led approach.

5. Officer Appraisal

Site Description

The application site is land to the north of 59 Second Avenue, known as 'Flemish House', and falls within the parish of Frinton-on-Sea. The plot is predominately laid to grass and forms part of the garden area for Flemish House. There are two trees on site afforded legal protection by means of a Tree Preservation Order; one to the north-west and one to the east. There are two other protected trees that fall adjacent to, but outside of, the application site. The character of the surrounding area is wholly residential. These properties are all detached and occupy large plots. The site falls within the Settlement Development Boundary for Frinton-on-Sea within both the Adopted Tendring Local Plan 2007 and within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft. Further, the site lies within the Frinton-on-Sea Conservation Area and falls within the The Avenues Area of Special Character.

Description of Proposal

This application seeks full planning permission for the erection of one detached dwelling, which will be 1.5 storeys in height and will serve three bedrooms.

History

Within planning application 10/00973/FUL permission was refused on this site for the erection of a single detached dwelling. The application was refused on the grounds that the proposal would severely compromise the spacious setting of Flemish House, which itself makes a major contribution to the special character of the Frinton-on-Sea Conservation Area. Further, the reduction in plot width of Flemish House and the proposed plot width for the new dwelling would not be in character with surrounding plots and would have harmed the areas special character.

It should also be acknowledged that an application for a detached dwelling was also refused in 2000 (reference 00/01826/OUT), again due to the significant harm to the character and appearance of the surrounding area. This decision was also dismissed at appeal (reference APP/P1560/A/01/1064065) where the Inspector concluded "I believe the appeal proposal would conflict with a number of development plan policies. It would not safeguard or enhance the character of this part of the urban environment, or give priority to protecting or enhancing an area of intrinsic environmental quality" and "I find that the proposal would also conflict with the requirement of policy FWK11 that new development should have particular regard to the special character and appearance of The Avenues area."

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.

2. Impact upon Character of Area/Conservation Area

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.

Paragraph 193 of the National Planning Policy Framework (2018) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Paragraph 196 of the National Planning Policy Framework (2018) states less than substantial harm to a designated heritage asset should be weighed against the public benefits of the proposal.

Paragraph 201 of the National Planning Policy Framework (2018) states not all elements of a Conservation Area will necessarily contribute to its significance, however a loss of a building which makes a positive contribution to the significance of the Conservation Area should be treated either as substantial harm or less than substantial harm, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area.

Policy EN17 of the adopted Tendring District Local Plan (2007) seeks to ensure that developments within a conservation area preserves and enhances the conservation area setting. Policy PPL8 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) seeks to ensure that any new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area, especially in terms of: any important views into, out of, or within the Conservation Area.

Saved Policy FW5 of the Tendring District Local Plan (2007) requires new development in the Avenues to have particular regard to the special character and appearance of the area, including the scale, aspect and design of adjoining buildings. This policy also identifies density as a matter to be taken into account and states that development which would result in a reduction in the spacious character of the area will be refused planning permission. The pre-ample of the policy also goes on to state that as the spacious scale of buildings and extensive plot frontages and sizes contribute to the special character of the Avenues, residential densities that may be suitable for infill housing developments elsewhere will be inappropriate in this area. Well designed infill development on plots at least 15 metres wide may be acceptable in some cases, however new dwellings would need to stand on plots that compare favourably with neighbouring houses, thus requiring frontages of significantly more than 15 metres in many cases to avoid any reduction in the special Arcadian character.

An Inspector in a previous appeal decision (reference APP/P1560/A/01/1064065) on this site described the site as a substantial detached property standing on a generous plot; in their view the special character of this part of the large conservation area stems from the quality of the buildings, the spacious layout of the area and the number of trees in private gardens visible along the road frontages. In each of these respects Flemish House makes a positive contribution to the conservation area and the Area of Special Character. Further, the Conservation Area review highlights Flemish House as especially noteworthy due to its distinctive design which makes Second Avenue one of the most significant locations in the area. Flemish House therefore represents a non-designated heritage asset located within a designated heritage asset (The Frinton Conservation Area). Paragraph 197 of the NPPF (2018) states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

It is also noted that prior to the designation of the conservation area in the early 1980s some of the development which took place in Second Avenue was less sympathetic to the character of the area. In particular the houses in the group immediately south of Flemish House, built in the 1970s,

stand on smaller plots with narrower frontages and are therefore much less imposing, as are some of the other properties along this section of Second Avenue. However, to the north of the site and to the south of Holland Road there is a predominance of the substantial houses on large plots that make such an important contribution to the overall character of this part of the conservation area.

The site at present is an attractive area of garden which compliments the setting of Flemish House. The plot is entirely appropriate to the stature of Flemish House and to the northern part of this stretch of Second Avenue. The site also provides good separation between Flemish House and the neighbouring dwelling, contributing towards the spacious character of the development in the immediate area.

The proposed development would result in less than substantial harm to the Frinton Conservation Area as a whole, and in line with Paragraph 196 of the National Planning Policy Framework (2018) this harm should be weighed against the public benefits of the proposal. Given the Council can currently demonstrate a five year housing supply of land, there are no special public benefits as a result of one additional dwelling that outweigh the harm identified.

The siting of a dwelling within the side garden of Flemish House, a non-designated heritage asset, would result in material harm to the spacious character and appearance of this important part of the conservation area by eroding the open space formed by the side garden and by increasing the density of development. As stated above, the side garden currently contributes positively to the character and appearance of the conservation area in this location.

As already mentioned part of the impressive character of the area is the number of trees in private gardens visible along the road frontages. Flemish House has a number of protected trees, including a cedar and willow close to the Second Avenue frontage. The trees, particularly those at the frontage of the site, make a significant positive contribution to the character and appearance of the conservation area. Consequently, the overall development proposal and the resultant tree removal would result in a loss of openness and fail to preserve or enhance the character and appearance of the conservation area, resulting in substantial harm to the setting of a non-designated heritage asset.

In terms of the design of the dwelling itself, it is to be 1.5 storeys high, incorporating hipped roofs and pitched roof dormers to help create a more semi-rural design. Other features have been incorporated, including a brick plinth, chimney and single storey elements, all of which help to reduce the bulk of the overall built form. However, the dwelling is to be sited approximately 5 metres back from Flemish House, and will run close to the northern boundary, thereby further giving the impression of a cramped appearance in this open spacious plot, to the detriment of the areas open character and appearance and to the open setting of Flemish House.

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 100sqm. The submitted plans show this to be comfortably achieved for both the proposed dwelling and Flemish House.

3. Tree Impacts

The agent for the application has submitted a detailed tree survey and report that shows the Root Protection Areas (RPA's) of the trees overlaid with the position of the proposed new dwelling, and shows where specialist construction techniques will need to be used in relation to the proposed access, which results in an incursion to the RPA of a retained tree. The development would also result in the complete removal of a Blue Cedar (protected by 99/25/TPO), two young Field Maple and a Eucalyptus situated on the northern boundary of the site. A small culinary Apple tree close to the host dwelling is also shown to be removed. Whilst the impact upon the landscape character of the area will be harmed, as previously detailed, on balance the loss of the trees themselves, given their age and condition is not considered to be significantly harmful subject to replacement planting. Therefore had the application been approved, conditions for new planting and a soft landscaping scheme would have been included.

4. Impact to Neighbouring Amenities

Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The proposed dwelling will be visible and thereby potentially impact the amenities of a number of neighbouring properties to the north, south and west. However, given an overall separation distance of approximately 15 metres to each of these properties, the dwelling will not appear imposing or result in any loss of light.

In terms of potential overlooking, it is firstly acknowledged that the only first floor side elevation windows are velux windows pointing upwards, and will therefore not result in no overlooking. There are first floor rear elevation windows, both serving bedrooms. However, due to the dwelling being set back in relation to adjacent properties to the north and south, any views are likely to be areas furthest to the rear of the garden, areas less likely to be regularly occupied. In relation to the neighbouring property to the west, 'Rustic Lodge', there are likely to be some views into their garden area but again to the rear area. Further the Essex Design Guide states that with rear-facing habitable rooms there should be a minimum of 25 metres space back-to-back to dwellings parallel. The submitted plans show an approximate distance of 30 metres and therefore complies with the above standards.

5. Highway Safety

Essex Highways Authority, following consultation, do not object to the proposed development subject to a condition to include details of future bicycle storage provision. However, given the size of the plot, which also includes a garage, there is considered to be sufficient space within the site and this condition would not have been considered necessary or reasonable had the application been approved.

Further, Adopted Car Parking Standards state that for a dwelling of two or more bedrooms there should be minimum provision for two parking spaces measuring 5.5m x 2.9m or, if being relied upon as one of the parking spaces, a garage should have minimum internal dimensions of 7m x 3m. The submitted plans show that whilst the garage does not accord with the above measurements, there is significant room to the front and side of the dwelling to accommodate the necessary parking.

The proposed site plan demonstrates that the proposal can accommodate two parking spaces however these are under the requirements of Essex Parking Standards. The parking spaces need to measure 5.5 metres by 2.9 metres. The garage is undersized however if two parking spaces were provided to the Essex Parking Standards the proposal will comply with Highway safety.

6. Legal Obligations

Following consultation with the Council's Public Open Space team, they have stated that a contribution towards play and open space is not required on this occasion.

Other Considerations

Frinton and Walton Town Council recommend refusal as Flemish House is a unique building and therefore should retain its spacious garden area. Additional built form would detract from the special character and appearance of the street scene.

Ten letters of objection have also been received, with the following concerns:

1. Will harm the spacious character and setting;
2. Loss of privacy;
3. Harm to Conservation Area; and
4. Loss of property value.

In answer to this, points 1, 2 and 3 have been addressed within the main body of the report above, whilst point 4 is not a material planning consideration.

6. Recommendation

Refusal.

7. Reason for Refusal

- 1 Paragraph 193 of the National Planning Policy Framework (2018) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Paragraph 196 of the National Planning Policy Framework (2018) states less than substantial harm to a designated heritage asset should be weighed against the public benefits of the proposal. Paragraph 197 of the National Planning Policy Framework (2018) states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Policy EN17 of the adopted Tendring District Local Plan (2007) seeks to ensure that developments within a conservation area preserves and enhances the conservation area setting. Policy PPL8 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) seeks to ensure that any new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area, especially in terms of: any important views into, out of, or within the Conservation Area.

Saved Policy FW5 of the Tendring District Local Plan (2007) requires new development in the Avenues to have particular regard to the special character and appearance of the area, including the scale, aspect and design of adjoining buildings. This policy also identifies density as a matter to be taken into account and states that development which would result in a reduction in the spacious character of the area will be refused planning permission. The pre-ambles of the policy also goes on to state that as the spacious scale of buildings and extensive plot frontages and sizes contribute to the special character of the Avenues, residential densities that may be suitable for infill housing developments elsewhere will be inappropriate in this area.

The application site falls within the Frinton-on-Sea Conservation Area and also within The Avenues Area of Special Character. The site at present is an attractive area of garden which compliments the setting of Flemish House, which is a non-designated heritage asset located within a designated heritage asset (Frinton-on-Sea Conservation Area). The site provides good separation between Flemish House and the neighbouring dwelling, contributing towards the open spacious character of the development in the immediate area.

The proposed dwelling, including the removal of several trees, would severely compromise the spacious setting of Flemish House which makes a major contribution to the special character of this part of Second Avenue, created by large dwellings set in spacious mature gardens and would be detrimental to the visual amenities of the area. The proposed reduction in the plot width of the existing dwelling site and the plot width of the proposed dwelling site would create inappropriate plot widths within this part of Second Avenue and would adversely affect the special character of the area.

Therefore, whilst the harm to the character and appearance of the Frinton-on-Sea Conservation Area as a whole is less than substantial, there is significant harm to the spacious setting of Flemish House, a non-designated heritage asset. Given the Council is

able to demonstrate a five year supply of housing land, there are no special public benefits as a result of one additional dwelling that outweigh this identified harm.

The proposal would therefore be contrary to the above national and local 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. 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.