

DELEGATED DECISION OFFICER REPORT

| AUTHORISATION | INITIALS | DATE |
|---|--------------------|---------------------------------|
| File completed and officer recommendation: | ML | 03/01/2018 ⁹ |
| Planning Development Manager authorisation: | SCE | 04.01.18 ⁹ |
| Admin checks / despatch completed | <i>[Signature]</i> | 04/01/19. <i>[Signature]</i> |

Application: 18/01136/FUL **Town / Parish:** Thorrington Parish Council

Applicant: Mr Steven Mycock - Danshell Healthcare Ltd

Address: Land to The rear of The Orchards Station Road Thorrington

Development: Demolition of existing barn and garden room and construction of a new 12 bed supported living home to extend the existing 5 bed residential care home service currently on site which is to be retained.

1. Town / Parish Council

Thorrington Parish Council No comments received

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 the first occupation of the proposed dwelling, the proposed vehicular access shall be constructed to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

2 The existing access or any part of an access (dropped kerb) rendered redundant or unnecessary by this development shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the re-instatement to full height of the highway verge/footway/kerbing to the specifications of the Highway Authority, immediately the proposed new accesses are brought into use.

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

4 Prior to first occupation of the proposed development, a (communal) recycling/bin/refuse collection point shall be provided within 15m of the highway boundary or adjacent to the highway boundary and additionally clear of all visibility splays at accesses and retained thereafter.

5 Any gates erected at the vehicular access shall be inward opening only and shall be recessed a minimum of 6m. from the highway boundary.

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 Numbered 10031/201 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.

7 Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all employees and visitors and 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.

8 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

Tree & Landscape Officer

On the boundary of the application site with the highway there are two large Oak trees that make a significant and positive contribution to the local street scene and the amenities of the locality ' these trees are not directly affected by the development proposal. Nevertheless the applicant should show how they will be physically protected for the duration of the construction phase of any development that may be granted planning permission. This information should be in accordance with BS5837 2012 Trees in relation to design, demolition and construction: Recommendations.

The main body of the application site contains several trees and established shrubs situated in the area currently being used as a car park and the garden of the existing dwelling.

In the car park; to the front of the barn there is a short section of coniferous hedge and a group of trees comprising singles trees of Willow, Ash and Laburnum. None of these make such a significant contribution to the character and appearance of the area that they merit formal legal protection by means of a Tree Preservation Order.

Further back into the land there are a few trees that are early mature specimens. These trees make only a moderate contribution to the appearance of the area as they are set back into the land ' some distance from the highway. Whilst they are pleasing features in the existing garden they do not merit retention or protection by means of a Tree Preservation Order.

In terms of the visual enhancement of the development proposal it would be desirable to secure new soft landscaping including tree planting in the area between the front of the of the proposed building and the highway including the extended car park.

New tree planting could be incorporated into the car park itself by way of the creation of tree planting pits between car parking spaces: rows 7-11 and 12- 18 and in the area immediately adjacent to the building and annotated on the site layout plan as 'exact paths and landscaping

Should planning permission be likely to be granted then details of soft landscaping should be secured by way of a planning condition.

With regards to the above planning application, we would like to advise that North East Essex CCG will not be submitting a response in respect of this development.

Anglian Water No comments received

Environmental Protection In order to minimise potential nuisance to nearby existing residents caused by construction works, Pollution and Environmental Control ask that the following is conditioned;
Prior to the commencement of any construction works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Pollution and Environmental Control.

Noise Control

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible.
- 2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency).
Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 3) The selection and use of machinery to operate on site, and working practices to be adopted will as a minimum requirement, be compliant with the standards laid out in British Standard 5228:2014.
- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

Emission Control

- 1) All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- 2) No materials produced as a result of the site development or clearance shall be burned on site. All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- 3) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

Waste Management

No comments.

3. Planning History

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|---------------|--|-----------|------------|
| 00/01549/FUL | Change of use from agriculture to domestic curtilage and paddock. Change barn use from hay/straw storage to domestic storage, stables and commercial use. | Approved | 21.02.2001 |
| 01/01687/FUL | Change of land use from agriculture to domestic curtilage, change barn use from hay/straw storage to domestic storage, stables and commercial use for storage of clothing | Approved | 08.11.2001 |
| 91/00826/FUL | Timber framed agricultural building for the storage of hay/straw. | Approved | 16.08.1991 |
| 92/00054/ADV | V shaped freestanding sign board | Refused | 25.02.1992 |
| 97/00362/LUEX | () Claim for Certificate of Lawful Use. Use as a residential dwelling without compliance with the agricultural occupancy restriction imposed by condition No. 4 of permission TEN/69/80 | Approved | 09.07.1997 |
| 99/00644/FUL | Proposed dormer window and internal alterations | Approved | 07.06.1999 |
| 03/00829/FUL | Proposed 16 bedroomed private hospital | Refused | 25.06.2003 |
| 03/02489/OUT | Care home with ancillary facilities | Refused | 01.04.2004 |
| 17/00095/FUL | Demolition of existing barn and garden room and construction of a new 12 bed residential care facility to extend the existing 5 bed service currently on site. | Withdrawn | |
| 18/01136/FUL | Demolition of existing barn and garden room and construction of a new 12 bed supported living home to extend the existing 5 bed residential care home service currently on site which is to be | Current | |

retained.

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

COM5 Residential Institutional Uses

EN1 Landscape Character

EN6 Biodiversity

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP10 Care, Independent Assisted Living

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

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 (including Site Description and Proposal)

Site Description

The application site is located on the western side of Station Road within the parish of Thorrington. The site is located approximately 400m to the west of the village of Thorrington. The site is bounded to the north by a detached dwelling and to the south by a place of worship. The gardens of the existing care home extend to the west with countryside beyond. Present on the site is a chalet bungalow in C3 use that is being occupied by 5 adults living as a single household with an element of care. To the south of the bungalow in a setback position is an agricultural storage building which was constructed in the early 90's. The site is currently accessed via an existing access point directly from the public highway (Station Road) which leads to a gravel parking area.

Proposal

The proposals would involve the erection of a new building to accommodate 12 no. single bedroom service user flats (C2 use class) with ancillary offices and communal areas. Access to the site would be via a relocated vehicular access to achieve required visibility splays.

The proposed building would be two-storey in height and located in a set back position behind the parking area. The building would be two-storey in height and consist of two wings linked via a reduced central element.

The building would accommodate adults with learning difficulties through the provision of 12 no. assisted living flats. Each living space would provide a living room, a kitchen, double bedroom with an en-suite bathroom and an internal lobby. Service users on the ground floor will also benefit from direct access to garden spaces.

Planning History on Site

In 1997 a lawful development certificate was granted to use the bungalow as a house without complying with an occupancy condition under reference TEN/97/0362/LUEX.

In 1991 planning permission was granted for the adjacent timber building. The description is as a 'timber framed agricultural building for the storage of hay/straw' (TEN/91/0826).

In 2001 permission was granted to change the use of part of the site (including the barn) to 'domestic curtilage' plus a commercial use for storage of clothing (01/01687/FUL).

In 2003 permission was refused for a new-build 16 bedroom private hospital (03/00829/FUL). It was refused on the basis of countryside and sustainability policies. A second refusal reason suggested that the increase in traffic would generate highway safety problems.

Policy Considerations

The application falls to be considered against Saved Policies QL1, QL2, QL9, QL10, QL11, COM5, TR1a and TR7 of the Tendring District Local Plan (2007). The principle policy criteria is that of COM5 (Residential Institutional Uses) of the Tendring District Local Plan 2007. This policy states that new residential institutional uses will be considered on their own merits subject to meeting other relevant Local Plan policies and the following additional criteria;

- a) The site would not be located away from existing Settlement Development Boundaries, in order that support services, facilities and public transport routes can be available.
- b) The development would not lead to a clustering of similar uses in the locality.
- c) The development would not create or give rise to a significant material adverse impact on public safety.
- d) There would be sufficient external space in the proposal to accommodate the normal recreation and other needs of residents, visitors or employees without impacting on highway safety, or the residential amenities enjoyed by adjoining properties.
- e) The extent and nature of any alterations/extensions or new separate buildings which may be required for the purposes of the use should not result in overdevelopment of the site.

Emerging Plan Policy LP10 largely reflects these sentiments but states that on land outside settlement development boundaries development proposals must either be located on a site safely accessible on foot within 800m of the edge of the settlement development boundary serving one of the District's strategic urban settlements, smaller urban settlements or strategic rural service centre OR be located on a site safely accessible on foot within 400m of the edge of the settlement development boundary of one of the District's rural service centres.

In this instance the site is situated outside of any defined settlement boundary in both the saved and emerging local plans and in an area therefore designated as countryside. The nearest settlement boundary, which serves Thorrington, is located 330m to the east. Thorrington itself is classed as a smaller rural settlement within the emerging local plan and has a limited number of available facilities and accessible public transport options. The application site is within walking distance of bus stops on Clacton Road to the south. However, the only shop in Thorrington is a considerable distance away and the footpath routes to it are indirect and largely unlit. Nor are the village hall or public house within easy walking distance. Therefore, overall, the range of facilities and public transport options available locally appears to be limited and not sufficient to support a care home use facilitating the everyday needs of residents, visitors and employees. There will, therefore, inevitably be a high reliance on the use of a private motor car, especially for staff and visitors to the care home, which is precisely what the principles of sustainability seek to minimise.

The proposal for a care home use here would be at variance with the principles of sustainability set out in the National Planning Policy Framework (2018) that underpin the policies that apply in the Local Plan policies listed above. These seek to concentrate new development in existing urban centres where services are most easily and most efficiently accessible to the greatest number of people. These policies also reduce the dependence on the use of the private motor car to access local services.

Clustering

Policy COM5 seeks to control the clustering of similar uses in the locality, as the concentrating of such accommodation in small areas can lead to various problems. In this instance there is no such similar use in the locality. Therefore it is considered the proposal is in accordance with criterion b) of the policy.

Public Safety

Care is to be provided on a 24 hour basis to residents, with a minimum of one member of staff to assist three residents, and with on site management/carer presence around the clock. Therefore a refusal based on the grounds of a significant material adverse impact on public safety is considered to be difficult to substantiate.

External Amenity Space

External amenity space will be provided within the grounds of the site which are extensive, providing a secure and safe environment for the recreational needs of the residents, away from adjoining residential properties. It is therefore considered that sufficient external space is provided within the site to accommodate for the normal recreation needs of the residents, visitors and employees.

Design/Impact

The proposed building replaces an existing former agricultural building which has no architectural merit. The proposed building is set back into the site in the same location as the existing agricultural building and to the rear of the chalet bungalow. The setback location, adjacent to the place of worship to the south and existing agricultural buildings to the north, and the presence of mature trees on the site frontage means that the building would not appear overly prominent in public views or detrimental to the character of the area.

The building itself has been designed with the accommodation split into two wings and a central element with contrasting design characteristics to break up the mass of the building and to provide a sense of identity. The proposed materials of brick, render and timber cladding would match surrounding buildings.

Overall the design, bulk, scale and materials of the building are considered to be appropriate for the surrounding area and would not result in any significant adverse impacts upon the character of the locality.

Residential Amenity

The application site lies within relatively close proximity to a number of residential properties; these are situated to the north and to the south beyond the place of worship. It is not considered that the proposed change of use would have a significant impact on residential amenity. The majority of activities would take place indoors and the proposed building is located some distance away from other dwelling houses. There is sufficient distance between the north facing flank and the main private garden area of the dwelling to the north not to cause overlooking concerns to arise.

Bearing in mind that there would be at least carers on site at any one time to supervise the residents, a high level of supervision would be expected. It is therefore concluded that there will be no significant impact that would warrant refusal on this ground.

Highways and Parking

ECC-Highways have no objections to the application subject to the following requirements;

- the vehicular access being constructed to a width of 5.5m prior to first occupation
- the existing access being suitably and permanently closed
- no unbound materials within first 6m of access
- a communal refuse/recycling point being provided within 15m of the highway boundary
- any gates being set back 6m from highway
- the car parking and turning area been provided in accord with the details shown on the plans prior to occupation
- details of bicycle storage being provided prior to occupation
- submission of a construction method statement.

These requirements would be secured via suitably worded planning conditions. The re-worked parking area will accommodate 26 spaces which comfortably accords with the requirements of the current parking standards.

Ecology/Trees

A phase one habitat survey has been provided which concludes the following;

The proposals may result in the loss of a small area (probably no more than 0.1 hectares) of rank grassland habitat that is suitable for use by widespread species of reptile. It is recommended that this is cut to 25 to 50mm prior to commencement of works to discourage them from using it should they be present.

The barn should be demolished, and any trees and shrubs removed, over the winter months as these areas are likely to be used by nesting birds. If this is not practicable they will need to be checked by a suitably qualified ecologist prior to commencement of works.

The two buildings that will need to be demolished are unsuitable for use by roosting bats and the trees on the site are well maintained and no features suitable for use by roosting bats were observed.

For the reasons set out in this report the proposals are unlikely to affect other protected species, such as great crested newts, dormouse or badgers.

The Council's Tree Officer states that the two Oak Trees present on the boundary with the highway are not directly affected by the development, however the applicant should show how they would be protected during the construction phase. This would be secured via condition. He confirms that none of the other trees present on the site merit formal legal protection.

Other Considerations

The NHS do not wish to provide comments, the Council's Environmental Team request conditions aimed at restricting the impact upon local residents during the construction phase and the Council's Building Control Team have no comments.

Thorrington Parish Council has not commented upon the application. 2 letters of objection have been received outlining the following concerns;

- over-development of the site
- sets undesirable precedent
- size of building not in keeping with the character of the locality
- noise and disturbance from residents upon local people.

6. Recommendation

Refusal

7. Reasons for Refusal

- 1 The proposal is contrary to Saved Policy COM5 of the Tendring District Local Plan (2007), Emerging Policy LP10 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) and the aims and aspirations of the National Planning Policy Framework (2018).

Paragraphs 7 and 8 of the National Planning Policy Framework (2018) state that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways, these being an economic objective, a social objective and environmental objectives.

Saved Policy COM5 criteria a) states that proposals for residential institutional uses should not be located away from existing settlement development boundaries, in order that support services, facilities and public transport routes can be available.

Emerging Policy LP10 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) states that on land outside settlement development boundaries development proposals must either be located on a site safely accessible on foot within 800m of the edge of the settlement development boundary serving one of the District's strategic urban settlements, smaller urban settlements or strategic rural service centre or be located on a site safely accessible on foot within 400m of the edge of the settlement development boundary of one of the District's rural service centres.

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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 for the refusal, approval has not been possible.

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| Are there any letters to be sent to applicant / agent with the decision? If so please specify: | YES | <input checked="" type="radio"/> NO |
| Are there any third parties to be informed of the decision? If so, please specify: | YES | <input checked="" type="radio"/> NO |