

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	ML	24/12/2018
Planning Development Manager authorisation:	SCE	02.01.19
Admin checks / despatch completed	AP	2/1/19

*ML*

**Application:** 18/01864/FUL **Town / Parish:** Thorpe Le Soken Parish Council

**Applicant:** Mr Simon Patience

**Address:** Forbourn Motors High Street Thorpe Le Soken

**Development:** Variation of Condition 4 of approved application 18/00860/FUL to amend wording of condition to: Notwithstanding the provisions of Article 3, Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) order 1995 (or any order revoking or re-enacting that order with or without modifications) the first floor north-east facing bathroom window in plots 4, 5 and 6 shall be glazed in obscure glass before the development hereby permitted is first occupied and shall thereafter be permanently retained in the approved form.

### **1. Town / Parish Council**

Thorpe-le-Soken Parish Council      No comments recieved

### **2. Consultation Responses**

n/a

### **3. Planning History**

13/00308/OUT	Demolition of garage, erection of three shops, office (B1), flat, 3 houses and 1 bungalow.	Approved	10.10.2013
14/01587/OUT	Demolition of existing garage workshops and erection of 8 no. mixed residential units.	Refused	22.12.2014
15/00879/OUT	Demolition of existing garage workshops and erection of 8 no. mixed residential units and one shop/office.	Approved	26.08.2015
16/01397/DETAIL	Reserved matters application for the demolition of existing garage workshops and erection of 8 no. mixed residential units and one shop/office.	Approved	31.10.2016
18/00345/DISCON	Discharge of condition 10	Approved	04.05.2018

	(contamination) of planning permission 15/00879/OUT.		
18/00860/FUL	Amendment to planning permission 15/00879/OUT and 16/01397/DETAIL including the provision of 2 x 3 bed properties, 1 x 1 bed flat above a commercial/office unit on ground floor, amendment to the position of plot 6 and amendment to the parking to plot 4 and 5.	Approved	13.09.2018
18/01782/DISCON	Discharge of Condition 15 (Landscaping) of application 18/00860/FUL.	Approved	31.10.2018
18/01864/FUL	Variation of Condition 4 of approved application 18/00860/FUL to amend wording of condition to: Notwithstanding the provisions of Article 3, Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) order 1995 (or any order revoking or re-enacting that order with or without modifications) the first floor north-east facing bathroom window in plots 4, 5 and 6 shall be glazed in obscure glass before the development hereby permitted is first occupied and shall thereafter be permanently retained in the approved form.	Current	
18/00860/FUL	Amendment to planning permission 15/00879/OUT and 16/01397/DETAIL including the provision of 2 x 3 bed properties, 1 x 1 bed flat above a commercial/office unit on ground floor, amendment to the position of plot 6 and amendment to the parking to plot 4 and 5.	Approved	13.09.2018
18/01864/FUL	Variation of Condition 4 of approved application 18/00860/FUL to amend wording of condition to: Notwithstanding the provisions of Article 3, Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) order 1995 (or any order revoking or re-enacting that order with or without modifications) the first floor north-east facing bathroom window in plots 4, 5 and 6 shall be glazed in obscure glass before the development hereby permitted is first occupied and shall	Current	

thereafter be permanently retained  
in the approved form.

#### **4. Relevant Policies / Government Guidance**

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

ER3 Protection of Employment Land

HG9 Private Amenity Space

HG14 Side Isolation

EN17 Conservation Areas

EN20 Demolition within Conservation Areas

EN23 Development Within the Proximity of a Listed Building

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP3 Housing Density and Standards

LP4 Housing Layout

PP6 Employment Sites

PPL8 Conservation Areas

PPL9 Listed Buildings

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

## **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 within the defined settlement limits of Thorpe le Soken. The site is also located within the Thorpe le Soken Conservation Area. A Grade II listed building, Furze House, is located directly opposite the site on the High Street. The application site is located on the northern side of the High Street. This is a predominantly residential area, incorporating a mixture of housing styles, with some commercial properties too. The site previously comprised of a frontage forecourt area under a large canopy with car sales, and a part two-storey/part single-storey structure which accommodated a showroom and offices at ground floor, and a 3-bed flat at first floor. The structures have now been demolished and construction work has commenced.

The site measures approx 0.23 hectares, with a slight fall north-east to south-west.

## Planning History

Planning application 12/00484/OUT was submitted and withdrawn for the erection of 5 flats, 3 houses and 2 bungalows following the demolition of existing workshops. This application was withdrawn as it was contrary to policy ER3 (loss of employment site), as well as design issues, impact on conservation area, and lack of s106 contributions.

Following this withdrawn application, planning permission was granted under 13/00308/OUT for the demolition of the existing structures on the site, and the erection of 3 no. shops, one office (B1), one flat, 3 no. houses and 1 bungalow. This was granted on 10 October 2013.

14/01587/OUT then sought outline permission with access and layout included for the demolition of existing garage workshops and erection of 8 no. mixed residential units. These units include 2 x 2-bed bungalows (plots 7 and 8), 3 x 3-bed dwellings (units 4, 5 and 6), 1 x 2-bed dwelling (plot 2), 1 x 1-bed dwelling (plot 1), and 1 x 1-bed flat (plot 3). Plot 2 also doubles as a live work unit with retail space at ground floor. That application was refused on three grounds: Overlooking from Plot 3, loss of commercial land, and lack of public open space contribution.

15/00879/OUT then approved outline permission for 2 x 2-bed bungalows (plots 7 and 8), 3 x 3-bed dwellings (units 4, 5 and 6), 1 x 2-bed dwelling (plot 2), 1 x 1-bed dwelling (plot 1), and 1 x 1-bed flat (plot 3). Plot 2 also doubles as a live work unit with retail space at ground floor.

16/01397/DETAIL then approved the reserved matters associated with the outline approved in 2015.

Planning permission 18/00860/FUL then granted the provision of 2 x 3 bed properties, 1 x 1 bed flat above a commercial/office unit on ground floor, an amendment to the position of plot 6 and an amendment to the parking to plot 4 and 5, as a varied scheme to that approved under planning permission 15/00879/OUT and 16/01397/DETAIL. In addition the block to the front of the site was varied to comprise of a rectangular footprint accommodating accommodation over 3 floors. The building was approx. 1m higher than approved previously and slightly wider. The previously approved commercial space had a floorspace of 40sqm. This varied scheme approved a reduction of this space to 30sqm in size.

## Proposal

This application proposes a variation to Condition 4 of planning permission 18/00860/FUL. Condition 4 reads as follows;

'Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the first floor north-eastern facing bathroom windows and the first-floor south-western facing bedroom windows in plots 5 and 6 shall be glazed in obscure glass before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form'.

This application to vary this condition by removing the requirement to obscure glaze the first floor south-western facing bedroom windows in plots 5 and 6 and by including the requirement to obscure glaze the north-east facing bathroom windows in plots 4, 5 and 6.

## Appraisal

### Impact of Variation

The south-western facing elevations of plot 5 and 6 are situated between 21m and 22.5m from the rear of plots 1, 2 and 3 and Firs Cottage and Mrytle Cottage to the south. This distance combined with the fact that bedrooms are not considered to be principle habitable rooms means that any degree of overlooking would be minimal and not adverse enough to warrant a refusal of planning permission. Consequently, it is considered that the current requirement to obscure glaze the

relevant windows is onerous. The requirement to obscure glaze the north facing bathroom windows will remain in place for privacy purposes.

### Conditions

The conditions from 18/00860/FUL will be re-imposed and the landscaping condition will be updated to reflect the scheme recently approved under a discharge of condition application. As work has commenced on site there is no requirement for a time limit condition.

### Other Considerations

Thorpe-le-Soken Parish Council has not commented upon the application. No further letters of representation have been received.

## **6. Recommendation**

Approval

## **7. Conditions**

- 1 The hereby approved development shall be constructed using the following materials;

Facing Brick - Wienerberger Terca Cranbrook Red  
Render - K-Rend textured render in colour Wheaten  
Roof - SSQ Del Carmen Ultra Grade Natural Roof Slate and Weinerberger Sandtoft Humber Plain Clay Tile  
Windows/Door/Weatherboarding - White Paint Timber

Reason - In the interests of visual amenity and to safeguard the character and appearance of the Conservation Area.

- 2 The hereby approved shop/office front, including the entrance door, shall be constructed in timber and glass, unless otherwise agreed in writing with the Local Planning Authority.

Reason - In the interests of the character and appearance of the Conservation Area.

- 3 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modifications) the first floor bathroom windows in the north-eastern facing elevations of plots 4, 5 and 6 shall be glazed in obscure glass before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

Reason - To protect the privacy and amenities of the occupiers of adjoining properties.

- 4 Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Classes A, B, C and E of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no additions to the dwellings, nor shall any buildings, enclosures, swimming or other pool be erected except in accordance with drawings showing the design and siting of such additions or building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - To ensure the proposed properties retain sufficient private amenity space and to preserve neighbouring residential amenity from adverse overlooking.

- 5 Development shall be carried out in full accordance with the Arboricultural Impact Assessment rev 13/06/15 approved under previous permission reference 15/00879/OUT.

The approved measures for protection shall be installed before any development commences and shall be retained throughout the construction period.

Reason - To ensure the adequate protection and retention of existing trees.

- 6 Notwithstanding the provisions of Article 3, Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking and re-enacting that Order with or without modification), the hereby approved shop/office shown on the approved plans shall be used for A1, A2 or B1a uses only and for no other purpose including any other purpose in Classes A3, B1, B8 or C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any Statutory instrument and re-enacting that Order with or without modification).

Reason - To ensure the hereby approved shop/office stays as a town centre commercial use to compensate for loss of the existing employment use and in the interests of residential amenity and highway safety.

- 7 All new driveways and parking areas shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the building.

Reason - In the interests of sustainable development and to ensure that run-off water is avoided to minimise the risk of surface water flooding.

- 8 Prior to the occupation of any of the development, the proposed private drive shall be constructed in precise accord with the details shown in Drawing Number DHA/12712/11 Rev B and shall be provided with an appropriate dropped kerb vehicular crossing of the footway to the specifications of the Highway Authority.

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

- 9 Prior to the proposed access being brought into use, vehicular visibility splays of 33m by 2.4m by 33m 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 maintained in perpetuity free from obstruction exceeding a height of 600mm.

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.

- 10 No unbound materials shall be used in the surface treatment of the proposed vehicular access within 12m of the highway boundary.

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

- 11 Prior to occupation of the development the vehicular turning facility for service and delivery vehicles, as shown on approved drawing no. DHA/12712/11 Rev B, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason - To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

- 12 Any part of the existing vehicular access that has become redundant as a result of this proposed development shall be suitably and permanently closed in accordance with details to have been previously approved by the Local Planning Authority, incorporating the reinstatement to full height of the highway verge/footway/kerbing to the specifications of the Highway Authority, immediately the proposed new access is brought into use.

Reason - To ensure the removal of and to preclude the creation of un-necessary points of traffic conflict in the highway and to prevent indiscriminate access and parking on the highway, in the interests of highway safety.

- 13 Prior to the occupation of the development the parking bays, as shown on approved plan DHA/12712/11 Rev B, shall be constructed, surfaced and marked out ready for use. The parking bays shall then be retained for parking associated with the approved development in perpetuity.

Reason - To ensure sufficient on-site parking provision is provided in the interests of highway safety.

- 14 The approved scheme of landscaping shown on drawing no. 18.493-P-200 and NC 18.493-P-201 (as approved under planning reference 18/01782/DISCON), shall be implemented no later than the first planting season following commencement of the development (or within such extended period or phased arrangement as the Local Planning Authority may allow) and shall thereafter be retained and maintained for a period of five years. Any plant material removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season and shall be retained and maintained.

Reason - To ensure the effective implementation of the approved landscaping scheme, in the interests of visual amenity.

- 15 The development shall be carried out in accordance with the land contamination mitigation measures outlined within the 'Remediation Method Statement (Ref - 171605/rms dated February 2018) and 'Remediation and Validation Report (Ref - 171605/val2 dated March 2018) as approved under planning reference 18/00345/DISCON.

Reason - To ensure that any risks (to future users of the land and neighbouring land and to controlled waters, property and ecological systems) arising from any land contamination are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 16 The development hereby permitted shall be carried out in accordance with the following approved plans: DHA/12712/11 B, DHA/12712/12 A, DHA/12712/14 A, DHA/12712/16 A, DHA/12712/15 A, DHA/12712/13 A, DHA/12712/21, DHA/12712/23, DHA/12712/22, 18.493-P-200 and NC 18.493-P-201.

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

## 8. **Informatives**

### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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