

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	09/01/2019
Planning Development Manager authorisation:	AN	10/01/19
Admin checks / despatch completed	ER	10/01/19

**Application:** 18/01851/FUL **Town / Parish:** Ardleigh Parish Council

**Applicant:** Katie Goodey

**Address:** Oakdene Cottage Bromley Road Ardleigh

**Development:** Proposed change of use from highway to residential garden (land already enclosed by garden fence).

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

Ardleigh Parish Council have not commented on this application.

### **2. Consultation Responses**

ECC Highways Dept

The information that was submitted in association with the application has been fully considered by the Highway Authority. The proposal involves the removal of Highway Rights and this has been raised with Essex Highways who have advised the following:

This has been a fairly long term encroachment issue. The land is surplus to our requirements, although no formal sign off was done for this request.

As it was an encroachment, the applicant would have had to go through the S.116 £4000 application via the Magistrates Court; however Essex Highways agreed with the applicant that if the encroachment can be removed, they can seek a S.247 order instead.

Essex Highways have no highways issues with this request, and the extent of the Utilities on the area affected should be cleared up during the DFT stopping up process.

Please note the land is highway and will require a S.247 order before it can be formally removed from the highway.

Subject to the above and from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority as it is not contrary to the following Development Management policies:

- A) Safety: Policy DM 1 of the Highway Authority's Development Management Policies February 2011
- B) Accessibility: Policy DM 9 of the Highway Authority's Development Management Policies February 2011
- C) Efficiency/Capacity: Policy DM 1 of the Highway Authority's Development Management Policies February 2011

### 3. Planning History

18/01851/FUL	Proposed change of use from highway to residential garden (land already enclosed by garden fence).	Current
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### 4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

HG16 Garden Extensions into the Countryside

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

SPL3 Sustainable Design

#### Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

## **5. Officer Appraisal (including Site Description and Proposal)**

### Site Description

The application site refers to Oakdene Cottage, Bromley Road, Ardleigh a one and a half storey dwelling located outside the settlement boundary of Ardleigh.

### Proposal

The application seeks planning permission for the change of use from highway to residential garden.

### Assessment

The main considerations for this application are the impact upon the countryside, impact upon neighbouring amenities and highway safety.

### Impact upon the countryside

Policy HG16 of the Tendring District Local Plan 2007 states that proposals for the extension of a domestic garden into the countryside will be permitted if; there is no material visual harm to the surrounding countryside, there would be no material loss of best and most versatile agricultural land, or otherwise seriously interfere with a neighbouring agricultural enterprise; and it would have no material adverse effect on the amenities of neighbouring properties. The proposal is therefore considered acceptable subject to the considerations set out below.

### Impact upon neighbouring amenities

The proposed piece of land is enclosed an existing fence which denotes the boundary of Oakdene Cottage. Due to the sufficient distance to neighbouring dwellings, the proposed change of use is not considered to cause any significant impact upon neighbouring amenities.

### Highway safety

Essex County Highways have been consulted on this application and do not raise any objections to the change of use and therefore the change of use from highway to residential land is acceptable in terms of highway safety.

### Other considerations

Ardleigh Parish Council have not commented on this application.

No letters of representation have been received.

### Conclusion

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

## **6. Recommendation**

Approval - Full

## **7. Conditions / Reasons for Refusal**

- 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: 1:1250 Site Location Plan @A4, Block Plan scale 1:500.

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.

### Highway Safety

Please note the land is highway and will require a S.247 order before it can be formally removed from the highway.

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