

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	29/03/19
Planning Development Manager authorisation:	AN	1/4/19
Admin checks / despatch completed	SB	01/04/19.

Application: 19/00194/FUL **Town / Parish:** Brightlingsea Town Council

Applicant: Mr & Mrs Taylor

Address: 6 Ladysmith Avenue Brightlingsea Colchester

Development: Proposed two bedroom bungalow.

1. Town / Parish Council

Brightlingsea Town Council

Brightlingsea Town Council feels that this application should be called in, and Councillor Graham Steady will speak to it as Councillor Jayne Chapman knows the applicants too well. The Town Council are surprised that Highways have not made any comment.

2. Consultation Responses

Tree & Landscape Officer

The application site currently forms part of the garden of 6 Ladysmith Avenue and an adjacent area of land.

The garden is pleasantly set to lawn with small trees, shrubs and hedges. The largest tree is a Flowering Cherry that has been heavily reduced; although it can be seen from the highway it does not merit protection by means of a tree preservation area.

The land adjacent to the garden is set to grass with a strong boundary hedge feature. It contains a single Hawthorn that is covered in Ivy. This tree does not merit protection by means of a tree preservation order.

The proposed development layout leaves little scope for new soft landscaping and planting in the rear garden will only benefit property owners rather than the general public

UU Open Spaces

Response from Public Experience
Open Space & Play

Application Details

Application No: 19/00194/FUL

Site Address: 6 Ladysmith Avenue Brightlingsea Colchester Essex

Description of Development: Proposed two bedroom bungalow

Current Position

There is currently a deficit of 13.68 hectares of play and formal open

space in Brightlingsea.

Recommendation

Although there is a deficit of open space and play within Brightlingsea, the currently facilities should not see too much of an impact. A contribution would not be required on this occasion.

ECC Highways Dept

A site visit has been undertaken and the information that was submitted in association with the application has been fully considered by the Highway Authority.

The proposed dwelling is situated within the grounds of no. 6 and will be sharing the existing and improved vehicle access. There is an existing single yellow line located outside /opposite the vehicle access and is within the 30-mph speed limit. The proposals have adequate room and provision for off street parking and turning, for the existing and proposed dwelling therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following conditions:

1. Prior to the occupation of the proposed dwelling, the proposed private drive shall be constructed to a width of 5.3 metres as per proposed site layout plan Drawing No. PA. 004 Rev. B for at least the first 6 metres from the back of Footway / Highway Boundary and provided with an appropriate dropped kerb crossing of the footway.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1

Note: there is an existing pedestrian drop kerb with tactile paving to the south of the existing vehicle access, any widening of the vehicle access would need to avoid this and ensure that any turning movements do not impede onto the pedestrian drop kerb.

2. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1

3. Prior to occupation of the dwelling a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1

4. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

- Each vehicular parking space which is bounded by walls or other construction shall have minimum dimensions of 3.4 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

5. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

6. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

7. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway/carrageway (delete as appropriate).

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway/carrageway (delete as appropriate) is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Design Informative: 1

i. A 2.4m parallel band visibility splay as measured from and along the nearside edge of the carrageway across the entire site frontage, must be provided.

ii. The applicant should ensure that vehicles can enter and leave the highway in a forward gear. As per the Essex Parking Standards (Parking Standards: Design and Good Practice, Sept 2009) 6 metres should be provided behind each parking space to allow for manoeuvring. Alternatively, the applicant should submit a tracking diagram (swept path analysis) demonstrating that vehicles can manoeuvre on-site. Tandem parking for the proposed dwelling may wish to be considered.

Informative 2:

Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence. Therefore the applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway.

Informative 3:

On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative: 4

Any work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at: development.management@essexhighways.org or by post to:

SMO1 ' Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester.
CO4 9YQ.

3. Planning History

91/00867/FUL	Two storey rear extension.	Approved	05.11.1991
82/00533/FUL	Retention of extn	Approved	24.06.1982
18/01806/FUL	Proposed two bedroom bungalow.	Refused	18.12.2018

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN11a Protection of International Sites: European Sites and RAMSAR Sites

EN17 Conservation Areas

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG9 Private Amenity Space

HG13 Backland Residential Development

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)

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP4 Housing Layout

LP8 Backland Residential Development

PPL4 Biodiversity and Geodiversity

PPL8 Conservation Areas

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

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 is of an unusual 'U-shape' is located to the rear of Numbers 4, 4a and 6 Ladysmith Avenue, within the parish of Brightlingsea. The site currently forms part of the garden area for Number 6 Ladysmith Avenue and is predominantly laid to grass. The character of the surrounding area is highly urbanised, with residential and commercial development to all sides. The site falls within the Settlement Development Boundary for Brightlingsea within both the Adopted Tendring Local Plan 2007 and within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft. The site also lies adjacent to the north of the Brightlingsea Conservation Area.

Proposal

This application seeks full planning permission for the erection of one detached bungalow, to serve two bedrooms.

History

Under planning reference 18/01806/FUL, planning permission was refused for the exact same scheme in December 2018. The refusal reason focussed on the site being in a backland location that was out of character with the surrounding area, and also resulted in a dwelling with a contrived L-Shape appearance in a cramped plot.

Assessment

1. Principle of Development

The site is situated within the defined settlement limits of Brightlingsea 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. Backland Development

The development involves the construction of one detached dwelling in a 'backland' location to the rear of the established residential frontage along Ladysmith Avenue. With regards to Policy HG13 of the 2007 Local Plan (and echoed in policy LP8 of the draft Local Plan), it states proposals for the residential development of backland sites must comply with the following criteria:

- i. the site lies within a defined settlement development boundary and does not comprise land allocated or safeguarded for purposes other than a residential use;
- ii. where a proposal includes existing private garden land which would not result in less satisfactory access or off-street parking arrangements, an unacceptable reduction in existing private amenity space or any other unreasonable loss of amenity to existing dwellings;
- iii. a safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will be discouraged;
- iv. the proposal does not involve "tandem" development using a shared access;
- v. the site does not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;
- vi. the site is not on the edge of defined settlements and likely to produce a hard urban edge or other form of development out of character in its particular setting; and
- vii. the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development.

The main problems that can arise as a result of backland development include undermining the established character of an area (especially if similar schemes were to be repeated elsewhere in a locality); dwelling plots appearing cramped relative to their surroundings; the fragmentation of established gardens with a loss of mature landscaping; and the infringement of neighbouring residents' amenities. Development behind an established building line can also appear incongruous, particularly with isolated dwellings.

There must also be proper means of access to backland development, which is safe and convenient for both drivers and pedestrians, with a turning area where necessary to avoid the need for vehicles to reverse onto a public highway. A proposed access should avoid excessive disturbance or loss of privacy to neighbouring residents through, for example, an access drive passing unreasonably close to an adjoining dwelling. The likely frequency of use by vehicular traffic and the suitability of the access for service vehicles and the emergency services will also be relevant material considerations.

In respect of the policy criteria noted above the development is considered to meet the requirements as follows;

- i. the site is located within a defined settlement boundary in both the saved and emerging local plans; however is not designated for any particular use;
- ii. Policy HG9 of the Adopted Local Plan states two bedroom properties should have a minimum of 75sqm private amenity space and a minimum of 100sqm if a dwelling has three or more bedrooms. The submitted plans demonstrate there is sufficient provision for both the existing and proposed dwellings. The proposal also shows off street parking provision that meets the Adopted Car Parking Standards minimum provision of two spaces measuring 5.5m x 2.9m for each dwelling.
- iii. the access for the new dwelling will be shared with the existing dwelling, utilising the existing site access point off Ladysmith Avenue to the west of the site. The comings and goings associated with one additional dwelling will also not result in significant noise disturbances to the occupiers of 6 Ladysmith Avenue, whilst the access is in situ currently so will result in no visual detriment to the street scene.

iv. the proposed dwelling will be sited to the rear of Number 4a Ladysmith Avenue; however due to the irregular shape of the plot the proposal will share an access with Number 6 and therefore complies with this criterion.

v. Whilst the site is considered to be of an irregular and awkwardly shaped parcel of land, the plot is only of a size sufficient to accommodate one dwelling and would therefore not involve development that could prejudice a more comprehensive development scheme.

vi. the development of the site would not form a hard urban edge to the settlement as the land is surrounded by residential and commercial development to all sides.

vii. Whilst the surrounding area is heavily urbanised with a mixture of development to all sides, the development pattern is well defined and runs linear north to south along Ladysmith Avenue and north-east to south-west along Queen Street. There are no other examples of development situated behind these well-defined building lines. Given this, the siting of the proposed dwelling on this irregular plot would appear contrived, incongruous and out of character within this setting, resulting in a harmful form of development contrary to the above policies.

3. 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).

As previously discussed above, the surrounding area is heavily urbanised with significant levels of residential and commercial development to all sides; however the proposed siting of the dwelling would not be in-keeping with the existing pattern of development and would therefore be a harmful addition to the character of the surrounding area.

The pattern of development along this eastern section of Ladysmith Avenue is well defined by two storey detached or semi-detached properties. The proposed single storey bungalow will appear at odds with this strong development pattern, therefore further harming the character of the surrounding area. Further, in terms of the design of the dwelling itself, it has a contrived L-Shape appearance that again bears no relation to the character or appearance of the surrounding area, whilst it is also considered to be too wide and bulky, ensuring it will not assimilate well within its surroundings.

4. Heritage Impact

Whilst the application site is located directly adjacent to the Brightlingsea Conservation Area, there will be only very limited views of the site from within the conservation area, especially given the single storey nature of the dwelling. Given this, the proposed development will preserve the setting of the Brightlingsea Conservation Area.

5. Impact upon neighbours

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).

There are a number of residential properties within the surrounding area potentially impacted by the proposed development, namely those along Ladysmith Avenue to the west and Queen Street to the south-east. However, given there is an approximate separation distance of a minimum 30 metres to any of these properties, there is not considered to be any harm in terms of loss of light or

the dwelling appearing imposing, whilst its single storey nature ensures there will be no overlooking concerns.

6. Highway Impacts

Essex County Council as the Highways Authority do not object to the proposed development subject to conditions relating to the width of the access, there being no discharge of surface water on to the highway and vehicular parking and turning areas. A further condition relating to the submission of a Residential Travel Information Pack was requested, however given the minor nature of the development this would not have been attached as a condition had the decision been an approval.

Adopted Car Parking Standards state that for a dwelling with two bedrooms or more, provision should be made for a minimum of two parking spaces measuring 5.5m x 2.9m. The submitted plans demonstrate that this is achievable for both the existing and proposed dwellings.

7. Trees and Landscapes

The application site forms part of the garden area for 6 Ladysmith Avenue, which is set to lawn with small trees, shrubs and hedges. The largest tree is a Flowering Cherry that has been heavily reduced and although it can be seen from the highway it does not merit protection by means of a Tree Preservation Order.

The land adjacent to the garden is set to grass with a strong boundary hedge feature. It contains a single Hawthorn which again does not merit protection.

The development layout leaves little scope for new soft landscaping.

Therefore, there is no significant harm to any protected trees, whilst any future landscaping would be more for the benefit of the owners of the proposed dwelling as opposed to any wider public benefits.

8. Habitat Regulations Assessment

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007 and Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

9. Legal Obligations

The Council's Public Open Space team have confirmed that although there is a deficit of open space and play within Brightlingsea, the current facilities should not see too much of an impact as a result of the proposed works. Therefore a contribution is not required on this occasion.

Other Considerations

Brightlingsea Town Council have neither supported nor objected to the proposal; however do feel it should be determined by Planning Committee.

In answer to this a Local Ward Member has not requested the application to be called in and therefore it is an Officer delegated decision.

There have been two letters of objection received, with the following points:

1. Incongruous to character of the surrounding area;
2. Land is a peaceful haven for wildlife;
3. Proposal is tandem development;
4. Highway Impacts;
5. Impact to trees;
6. Poor design; and
7. Impact to neighbours.

In answer to this, points 1, 3, 4, 5, 6 and 7 have been addressed within the main body of the report above. With regards to point 2, the site is predominantly laid to grass, with no ponds and is surrounded by urban built form. It is therefore not considered that a Phase 1 Habitat Survey would be required on this occasion.

6. Recommendation

Refusal.

7. Reason for Refusal

- 1 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. 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).

Policy HG13 (vii) of the Adopted 2007 Local Plan states that proposals for residential development of 'backland' sites will only be permitted if the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development. These sentiments are echoed within Policy LP8 (f) of Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Whilst the surrounding area is heavily urbanised with a mixture of development to all sides, the development pattern is well defined and runs linear north to south along Ladysmith Avenue and north-east to south-west along Queen Street. There are no other examples of development situated behind these well-defined building lines. Given this, the siting of the proposed dwelling on this irregular plot would appear contrived, incongruous and out of character within this setting, resulting in a harmful form of development contrary to the above policies.

The pattern of development along this eastern section of Ladysmith Avenue is well defined by two storey properties. The proposed single storey bungalow will appear at odds with this strong development pattern, to the detriment of the character of the surrounding area. Further, in terms of the design of the dwelling itself, it has a contrived L-Shape appearance that again bears no relation to the surrounding development, and is considered cramped within its plot, ensuring it will not assimilate well within its surroundings.

The proposal therefore fails to accord with the above national and local policies.

- 2 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting

those tests, which means that all residential development must provide mitigation. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) in particular the Colne Estuary SPA and Ramsar site, mitigation measures will need to be in place prior to occupation.

A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

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.