

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	02/04/19
Planning Development Manager authorisation:	AN	11/4/19
Admin checks / despatch completed	SB	12/04/19

Application: 18/02080/FUL **Town / Parish:** Harwich Town Council

Applicant: Mr & Mrs Gary Cousins

Address: 25 Keynes Way Dovercourt Harwich

Development: Proposed new dwelling.

1. Town / Parish Council

Harwich Town Council Harwich Town Council has no objection to this application but raised concerns as to whether this is a legitimate area for development and request that this be investigated prior to any consent being given.

2. Consultation Responses

ECC Highways Dept
(Dated 24 January 2019) From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

The Highway Authority will protect the principle use of the highway as a right of free and safe passage of all highway users.

Overall parking provision is considered to be inadequate for the dwelling as proposed.

The width of the drive proposed is inadequate.

The proposal if permitted would set a precedent for future similar developments which would likely lead to inappropriate parking detrimental to the general safety of all highway users and undermine the principle of seeking to discourage on-street parking in the locality.

The proposal is therefore contrary to policy DM1 and DM8 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Notes

For the host dwelling, the access and off-street parking as proposed is acceptable.

1. Proposed driveway with scales at 2.25 metres. The minimum driveway width for a single dwelling is 3 metres as per the Essex Design Guide.

2. There is insufficient space proposed to accommodate 2 parking spaces of width 2.5 metres by 5 metres width recommended in the EPOA Parking Standards.

ECC Highways Dept
(Dated 12 February 2019
following submission of
amended plans)

The Highway Authority may consider a revised proposal that includes off-street parking in accordance with the current Parking Standards and appropriate access driveway width.

Following the submission of revised block plan drawing no. 1807.1/15 the information that was submitted in association with the application has been re-considered by the Highway Authority. The proposal is at the end of cul-de-sac and now provides adequate room and provision for off street parking, for the existing and proposed dwellings therefore:

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

1. 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.

2. 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.

3. 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/carriageway (delete as appropriate).

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway/carriageway (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.

Informative 1:

The existing footway and ease of passage running along the side and to the north of the proposed dwelling/ plot shall be maintained free and unobstructed at all times.

To ensure the continued safe passage of the public on the definitive right of way and existing accessible route.

Informative: 2

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.

UU Open Spaces

Response from Public Realm
Open Space & Play

Application Details

Application No: 18/02080/FUL

Site Address: 25 Keynes Way Dovercourt Harwich Essex

Description of Development Proposed new dwelling

Current Position

There is currently a deficit of -12.67 hectares of equipped play in Harwich and Dovercourt.

Recommendation

Due to the overall deficit in both Open Space and Play Areas in Harwich and Dovercourt it is felt that a contribution is justified and relevant to the planning application. The fence at Dovercourt Pool Play Area is in need of modernisation. Any contribution will be used towards these improvements.

Building Control and
Access Officer

No adverse comments at this time.

Tree & Landscape Officer

There are no trees on the application site.

The land appears to form part of the curtilage of the host property although part of the land may form part of the adjacent open space.

There is an established conifer hedge situated on what appears to be the boundary of the existing dwelling curtilage and another low hedge directly adjacent to the public footway to the north of the application site.

Although the existing vegetation helps to soften the appearance of the area it does not fall within the scope of legislation under which it could be afforded formal legal protection.

The proposed site layout shows new planting on the northern boundary to enhance the appearance of the development ' details of this should be secured by a condition attached to any planning permission that may be granted.

3. Planning History

N/A

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

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

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

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)

CP1 Sustainable Transport and Accessibility

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL4 Biodiversity and Geodiversity

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 is land located adjacent to the north of 25 Keynes Way, within the parish of Dovercourt. The land is currently laid to grass and forms part of the curtilage of 25 Keynes Way. The surrounding area is heavily urbanised, with residential built form to all sides. The site is situated within the Settlement Development Boundary of Dovercourt within both the Saved Tendring Local Plan 2007 and the Emerging 2013-2033 Tendring Local Plan Publication Draft.

Description of Proposal

This application seeks full planning permission for the erection of one detached 1.5 storey residential dwelling that will serve two bedrooms.

There were initial concerns that the application site did not form part of the curtilage of 25 Keynes Way and the application would need to also be assessed as a change of land use. Indeed, within the original planning permission granted for the development (reference TEN/921/84) of the surrounding area, the land in question is clearly defined as public amenity area, with the curtilage of 25 Keynes Way set back further south. However upon undertaking further research, Council records show that the site has been used as garden land since at least 2006 and therefore would be lawful and does not form part of the determination of this application.

Assessment

1. Principle of Development

The site is situated within the defined settlement limits of Dovercourt 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. Visual Impact

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).

Saved Policy HG14 of the adopted Tendring District Local Plan 2007 aims to ensure that appropriate open space is achieved between dwellings and the side boundaries of their plots to ensure that new development is appropriate in its setting and does not create a cramped appearance and to safeguard the open aspect. The policy states that as a guideline, a minimum distance of 1 metre will be sought but where circumstances warrant it, a greater distance will be expected.

The proposed dwelling is to be detached, 1.5 storeys and located to the north of 25 Keynes Way. A new access point from Keynes Way is proposed, which will run across Number 25. While it may initially appear the pattern of development in the immediate surrounding area is random, on closer inspection it is clear there is a strong building line beginning with Number 25 and running westwards. The proposed dwelling will extend beyond this building line, appearing incongruous and cramped in relation to the more spacious surrounding plots, to the detriment of the character of the surrounding area. Further, the contrived nature of the proposed development would also set a harmful precedent for future similar forms of development, particularly to the land adjacent to both the north and north-west. This, together with its extended hard surfaced access, parking and turning areas would compromise the spacious character of the locality and increase the density of built form to the severe detriment of the character of the surrounding area.

This section of Keynes Way sees a variety of building types, with examples of single, 1.5 and two storey dwellings, all detached. There are examples of semi-detached and terraced properties to the north along Freshfields; however these are not visible from Keynes Way. Therefore the principle of a detached 1.5 storey property is acceptable. In terms of the design, while it is relatively

blatant the surrounding properties are of no special visual merit that necessarily needs to be adhered to. Effort has been made to soften the bulk of the proposal by including features such as dormers and window details. Therefore, there is not considered to be significant harm with the design and that does not form part of the refusal reason.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of two bedrooms or more should be a minimum of 75sqm, and for a dwelling with three bedrooms or more should be a minimum of 100sqm. The plans demonstrate this is achievable for both the existing and proposed dwellings.

3. 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 is sited in close proximity to both Number 25 Keynes Way and Number 17 Nightingale Close. In terms of the impacts to Number 17 Nightingale Close there is an approximate separation distance of 6 metres. Given this the dwelling will not appear imposing or result in significant loss of light. Further there are no first floor side elevation windows that can directly overlook, while the two rear elevation rooflights will face upwards, but also serve a bathroom and hallway, both of which will not regularly be occupied.

With regards to the amenities of Number 25 Keynes Way, while it is acknowledged the owners of this property are the applicant, the impacts to any future occupiers of this property must also be assessed. As previously noted, the development appears cramped; this is further highlighted with only an approximate 1 metre separation distance between the two properties. The proposed dwelling is 1.5 storeys and given the close separation distance the dwelling will appear dominant and imposing in relation to the single storey bungalow, also resulting in loss of natural daylight to windows along the northern elevation and to the rear extension, to the serious detriment of their existing amenities.

4. Highways Impacts

Essex Highways Authority initially stated the impacts of the proposal were not acceptable given the access into the site, with scales of 2.25 metres, was inadequate and did not meet the minimum requirements of 3 metres. Further, the proposal if permitted would have set a precedent for future similar developments which would lead to inappropriate on-street parking, detrimental to the general safety of all highway users. However, following these comments the agent for the application submitted amended plans that have increased the width of access to adhere to the above requirements and accordingly Essex Highways Authority has removed its earlier objection.

Adopted Parking Standards state a dwelling with two or more bedrooms should have provision for two parking spaces with minimum measurements of 5.5m x 2.9m or a garage, if being relied upon as one of the parking spaces, minimum internal dimensions of 7m x 3m. The proposed plans show that two vehicles at the above measurements can just be accommodated for the proposed dwelling, while there is sufficient room for the existing dwelling too.

5. 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. 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 Hamford Water 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.

6. Legal Obligations

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

The Council's Public Open Space and Play Team have stated there is currently a deficit of -12.67 hectares of equipped play in Harwich and Dovercourt. Due to the overall deficit in both Open Space and Play Areas in the area a contribution is both relevant and justified to this application, with the money to be spent modernising the fence at Dovercourt Pool Play Area.

This application has not come with a correctly completed unilateral undertaking for a contribution towards play and formal open space facilities.

No such contribution has been included within this application nor has any justification for the lack of a contribution and therefore this scheme does not comply with Policy COM6.

Other Considerations

Harwich Town Council raised no objections to the proposal but did request that it be investigated if the site is a legitimate area for development prior to any consent being granted.

There have been three letters of objection and one letter of observation received, with the following concerns:

1. The development would appear out of keeping;
2. Additional traffic;
3. The site is designated as 'open plan'; and
4. There is no off road parking provision.

In answer to this, all of these points have been raised within the main body of the report above.

6. **Recommendation**

Refusal.

7. **Reasons 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).

Saved Policy HG14 of the adopted Tendring District Local Plan 2007 aims to ensure that appropriate open space is achieved between dwellings and the side boundaries of their plots to ensure that new development is appropriate in its setting and does not create a cramped appearance and to safeguard the open aspect. The policy states that as a guideline, a minimum distance of 1 metre will be sought but where circumstances warrant it, a greater distance will be expected.

There is a strong building line beginning with Number 25 and running westwards. The proposed dwelling will extend beyond this building line, appearing incongruous and cramped in relation to the more spacious surrounding plots. Further, the contrived nature of the proposed development would also set a harmful precedent for future similar forms of development, particularly to the land adjacent to both the north and north-west. This, together with its extended hard surfaced access, parking and turning areas would compromise the spacious character of the locality and increase the density of built form to the severe detriment of the character of the surrounding area.

For the reasons set out above, the proposal is contrary to the aims and aspirations of the aforementioned national and local policies.

- 2 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).

With regards to the amenities of Number 25 Keynes Way, the development appears cramped with only an approximate 1 metre separation distance between the two properties. The proposed dwelling is 1.5 storeys and given the close separation distance the dwelling will appear dominant and imposing in relation to the single storey bungalow, also resulting in loss of natural daylight to windows along the northern elevation and to the rear extension, to the serious detriment of their existing amenities.

The proposal is therefore contrary to the aims and aspirations of the aforementioned policies.

- 3 Paragraph 54 of the National Planning Policy Framework (2018) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they meet are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

There is currently a deficit of -12.67 hectares of equipped play in Harwich and Dovercourt. Due to the overall deficit in both Open Space and Play Areas in the area a contribution is both relevant and justified to this application, with the money to be spent modernising the fence at Dovercourt Pool Play Area.

No such contribution has been included within this application nor has any justification for the lack of a contribution and therefore this scheme does not comply with Policy COM6.

4 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 Hamford Water 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. 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.