

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	13/06/2019
Planning Development Manager authorisation:	SCE	17/06/19
Admin checks / despatch completed	<i>hs</i>	18/6/19

**Application:** 19/00080/FUL **Town / Parish:** Weeley Parish Council

**Applicant:** Mr Pudney

**Address:** Wolvers Thorpe Road Weeley

**Development:** Variation of condition 2 of application 17/00843/FUL to construct additional access for Plot 2 (replacing Drawing No. 865/01 with 865/01 revision D).

### 1. Town / Parish Council

Weeley Parish Council  
**ORIGINAL COMMENTS**

Objection. Councillors feel it is incumbent upon them to point out this this new access road will effectively close a well-used layby therefore prohibiting vehicles from stopping safely on the exit from Weeley with no further opportunity to do so until the next village of Thorpe-le-Soken. This variation should not be approved.

Weeley Parish Council  
**AMENDED COMMENTS**

Weeley Parish Council continues to object to this revision in line with our comments dated 25 January 2019.

### 2. Consultation Responses

ECC Highways Dept  
**ORIGINAL COMMENTS**

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.

The intensification of use in relation to proposed access would lead to additional vehicles crossing the existing layby to enter and leave the site leading to conflict with vehicles parked in the layby in terms of both obstruction and restricted visibility, to the detriment of highway safety.

Note: The lay-by in this location is in regular use. This proposal will reduce the on-street parking availability, effectively sterilising an area of the lay-by creating potential obstruction issues and visibility difficulties for drivers using the new access when there are vehicles parked in the remainder of the lay-by which would likely result in an unacceptable degree of hazard for both emerging and approaching vehicles and to other highway users to the detriment of highway safety.

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**

1. The Highway Authority may consider a revised proposal that

ECC Highways Dept  
**AMENDED COMMENTS**

utilises the proposed driveway for Plot 1 or 3 rather than a totally separate driveway for Plot 2; in light of the existing lay-by running across the majority of the frontage of the site.

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 occupation of any of the proposed development the internal/ vehicle accesses and footway layout shall be provided in accord with Drawing Numbered 865/01 D.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1.

2. The development shall not be occupied until such time as a car parking, turning area and amended vehicle access has been provided in accord with Drawing Numbered 865/01 D. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8

Informative 1: 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 2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall 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](mailto:development.management@essexhighways.org) or by post to:

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Natural England

Natural England currently has no comment to make on the variation of condition 2.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with

ECC Highways Dept  
**AMENDED COMMENTS**

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Natural England

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Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with

Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us any further consultations regarding this development, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

### 3. Planning History

16/01245/OUT	Outline planning application with all matters reserved for the construction of 2 detached dwellings.	Approved	03.10.2016
17/00843/FUL	Proposed development of 3 detached dwellings (2 as previously approved under application 16/01245/OUT and the replacement of Wolver).	Approved	07.12.2017
18/00173/DISCON	Discharge of Conditions 04 (Construction Method Statement) 05 (Landscape Drawing) and 13 (Schedule of Materials) to Planning Application 17/00843/FUL.	Approved	01.03.2018
18/00982/FUL	Amendment to Plot 1 of approval no 17/00843/FUL and the construct of 4 no. bungalows on land to rear.	Refused	11.09.2018
18/01370/DISCON	Discharge of condition 13 materials - to approved planning application 17/00843/FUL (revision to materials approved under 18/00173/DISCON).	Approved	24.08.2018

### 4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

HG1 Housing Provision

HG6 Dwelling Size and Type

HG9 Private Amenity Space

HG12 Extensions to or Replacement of Dwellings Outside Settlement Development Boundaries

HG14 Side Isolation

EN1 Landscape Character

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG3 Residential Development Within Defined Settlements

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)

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP1 Housing Supply

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL9 Listed Buildings

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 supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

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

### Site and Surroundings

The application site lies to the northern side of Thorpe Road, to the eastern side of the village of Weeley. The site encompasses Wolvers and its former large side garden area to the east. Wolvers lies within the defined Weeley Settlement Development Boundary with the adjacent former garden area falling outside. The site is adjacent to ribbon development on both sides of the site and both sides of Thorpe Road all of which extend beyond the development boundary. To the east of the site is the Grade II listed dwelling 'Dale Brow'. The application site itself extends approximately 0.23 hectares in size between 'The Dene' to the west and 'Dale Brow'.

Development has commenced on site under planning permission 17/00843/FUL and associated discharge of condition applications.

### Proposal

This application seeks a variation of the approved plans approved under 17/00843/FUL (for the erection of 3 detached, 4 bed dwellings - 1 replacement and 2 new).

The original application approved a new access to serve the replacement dwelling (plot 1) with the existing access serving plots 2 and 3).

This application seeks the creation of a third central access to serve plot 2 allowing all 3 dwellings to be served by their own vehicular access.

### Appraisal

The main considerations in this instance are;

- Principle of Development;
- Scale, Layout and Appearance;
- Residential Amenities;
- Landscaping;
- Impact on the Heritage Asset;
- Highway Safety/Parking;

- Financial Contribution – RAMS; and;
- Other Considerations.

#### Principle of Development

The principle of residential development for the erection of 2 dwellings and the replacement of Wolverhampton has been established by the approval of 17/00843/FUL. Works have commenced on site and plots 2 and 3 are nearing completion.

The replacement dwelling had not commenced due to an outstanding appeal for further development to its rear. The appeal has recently been dismissed.

#### Scale, Layout and Appearance

The proposed variation does not impact upon the approved scale and appearance of the dwellings with only a minor variation to the approved layout being sought in the form of a third central access to serve plot 2.

Although this will result in an additional opening to the site frontage thus reducing the soft landscaping potential, given the built up character of the immediate locality this is not considered harmful to the street scene or visual amenity overall.

#### Residential Amenities

The addition of a third access will not have a material impact to neighbouring amenities. In fact, this allows for less noise and disturbance to the occupiers of plot 3 by removing passing cars from their frontage.

#### Landscaping

The proposed variation will necessitate the removal of an additional section of the boundary hedgerow that was shown as retained on the original plan.

Nevertheless, the new soft landscaping and tree planting approved under 18/00173/DISCON can still be implemented meaning that the proposed change in the layout would not be significantly harmful to the character of the area and would still result in a satisfactory development in terms of landscaping and visual amenity.

#### Impact on the Heritage Asset

The addition of a third central access by way of its separation distance from Dale Brow and screen planting will not be harmful to the setting of the listed building.

#### Highway Issues/Parking

The National Planning Policy Framework (2012) in paragraph 35 states that development should create safe and secure layouts which minimise conflict between traffic and cyclists or pedestrians. The adopted Tendring District Local Plan (2007) Saved Policy TR1a states that development affecting highways should seek to reduce and prevent hazards and inconvenience to traffic. Furthermore, Saved Policy QL10 of the Saved Plan states that planning permission will only be granted where access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate.

The addition of a central access will result in the existing adjacent layby being reduced in size. However, from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject conditions detailed above. These will be imposed where necessary.

#### Financial Contribution – RAMS

The original planning permission has been implemented through the commencement of works on site. This application relates to changes to the access serving plot 2 only and does not propose to increase the number of dwellings being built. It is the Council's view that it would be unreasonable to seek mitigation measures in this instance.

### Other Considerations

Weeley Parish Council object on the loss of the layby. As stated above, the new access reduces the size of the layby and The Highway Authority raises no objection. A refusal based on the impact on the layby is not justified in this instance.

No other letters of representation have been received.

### Conclusion

In the absence of any material harm resulting from the development, the variation application is recommended for approval.

No time limit condition is required in this instance as the development has commenced and is nearing completion.

## **6. Recommendation**

Approval - Full

## **7. Conditions**

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. 865/01 D, Drawing No. 865/02, Drawing No. 865/03, Drawing No. 865/04 and Drawing No. 865/05.

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

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

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

- 3 The development shall be carried out in strict accordance with the Construction Method Statement approved under 18/00173/DISCON.

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 4 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details approved under 18/00173/DISCON shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To enable existing landscaping to be protected and retained in the interests of visual amenity.

- 5 Prior to the occupation of any of the proposed development the internal/ vehicle accesses and footway layout shall be provided in accord with Drawing Numbered 865/01 D.

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

- 6 The development shall not be occupied until such time as a car parking, turning area and amended vehicle access has been provided in accord with Drawing Numbered 865/01 D. These facilities shall be retained in this form at all times and shall not be used for any



purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason - To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 7 Prior to occupation of the development, the existing and new accesses at their centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 90 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason - To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety.

- 8 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 respective curtilage of that dwelling.

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

- 9 The removal of all vegetation shall only be carried out outside of the bird nesting season (March to August inclusive).

Reason - To ensure the protection of birds potentially nesting on site.

- 10 No construction works or deliveries in connection with the development shall take place outside the hours of 0700 hours and 1900 hours Monday to Friday and 0800 hours and 1300 hours Saturdays, with the exception of any piling or other percussive works which shall not take place outside the hours of 0800 hours and 1700 hours Monday to Friday.

Reason - To protect the local amenity and reduce the likelihood of complaints of statutory nuisance.

- 11 The development shall be carried out in accordance with the materials details approved under 18/01370/DISCON.

Reason - The use of quality materials are an essential requirement given the proximity to the adjacent listed building.

## **8. Informatives**

### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Agent, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

### Highways Informatives

1. 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.

2. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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