

Delay caused by need to secure deed of variation for affordable units.

DELEGATED DECISION OFFICER REPORT

| AUTHORISATION | INITIALS | DATE |
|---|----------|-----------|
| File completed and officer recommendation: | MP | 02/05/19 |
| Planning Development Manager authorisation: | AN | 4/7/19 |
| Admin checks / despatch completed | SB | 04/07/19. |

Application: 18/01644/FUL **Town / Parish:** Mistley Parish Council

Applicant: Mr J Taylor - English Rural Housing Association

Address: Land adjacent 142 Harwich Road 2-9 Heathview Close

Development: Proposed erection of 8 dwellings on land forming part of development previously approved under 11/00037/FUL.

1. Town / Parish Council

Mistley Parish Council Mistley Parish Council support this planning application and welcome further affordable housing in the village. However, a condition must be that no construction vehicles are to be parked in Harwich Road.

2. Consultation Responses

Tree & Landscape Officer The information provided by the applicant relating to the proposed soft landscaping associated with the development of the land is sufficient to secure an adequate level of enhancement and screening.

The trees on the western boundary and shown as retained are Elm that have succumbed to Dutch Elm Disease. They no longer merit retention and the scheme should be amended to show their removal and replacement with alternative species. Native hedging as proposed for the northern boundary would be acceptable.

Tree & Landscape Officer That all looks good. No further comments.
(Dated 3 December 2018 following submission of amended plans)

ECC Highways Dept From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following measure:

1. Prior to the first occupation of the proposed development the access arrangements, vehicle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The access, parking and turning areas shall be retained in perpetuity for their intended purpose.

Reason: To ensure that appropriate access, parking and turning is provided.

2. Prior to the first occupation of the proposed development, the Developer shall be responsible for the provision and implementation,

per dwelling, 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.

The above measures are to ensure that this proposal is not contrary to the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative

- i. There shall be no discharge of surface water onto the highway.
- ii. All 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: SM01 - Essex Highways, Colchester Highways Depot, 653, The Crescent, Colchester Business Park, Colchester CO4 9YQ.

UU Open Spaces

Response from Public Experience
Open Space & Play

Application Details

Application No: 18/01644/FUL

Site Address: Land adjacent 142 Harwich Road 2-9 Heathview Close, Mistley

Description of Development: Proposed erection of 8 dwellings on land forming part of development previously approved under 11/00037FUL

Current Position

There is currently a deficit of 3.00 hectares of equipped play/formal open space in Mistley.

The closest play area to the development site is Furze Hill, Shrublands Road this area is classified as Local Equipped Areas for Play.

Due to the considerable deficit already existing in Mistley, it would be necessary to increase the amount of play should further development take place in the village.

Recommendation

Due to the significant lack of provision in the area it felt that a contribution, is justified and relevant to the planning application and that this money would be spent at the closest play area being at:

Furzes Hill, Mistley.

3. Planning History

| | | | |
|-----------------|--|----------|------------|
| 11/00037/FUL | Construction of 15 affordable rural dwellings with associated parking, carports, cycle stores, and new vehicular access. | | 27.10.2011 |
| 15/01520/OUT | The erection of up to 135 dwellings, including a flexible building for use as a healthcare facility (Class D1) and/or residential use (Class C3), together with access from Harwich Road; green infrastructure provision including allotments (about 1 hectare), children's play area, footways and structural landscaping; a sustainable drainage system including detention basin and swales and other related infrastructure and services including a footpath/cycleway parallel to Heath Road. | Approved | 14.09.2016 |
| 17/00943/DETAIL | Reserved matters application further to outline planning application 15/01520/OUT for details of appearance, scale, layout and landscaping, relating to the erection of 135 dwellings, incorporating a flexible building for use as either a healthcare facility or a dwelling and associated works. | Approved | 04.12.2017 |
| 18/00317/DISCON | Discharge of conditions 7 (Tree Schedule), 8 (Phasing Plan), 9 (Landscape and Open Space), 10 (Surface Water Drainage), 11 (Archaeological Investigation), 12 (Ecological Mitigation Scheme), 13 (Construction Method Statement), 14 (Local Recruitment Strategy), 15 (Specified Highway Works) and 20 (Broadband) of approved applications 15/01520/OUT and condition 2 (Materials Plan) of approved application 17/00943/DETAIL. | Current | |
| 18/01644/FUL | Proposed erection of 8 dwellings on land forming part of development previously approved under 11/00037/FUL. | Current | |
| 19/00021/DISCON | Discharge of Condition 17 (Residential Travel Information Pack) to approved Planning Application 15/01520/OUT. | Approved | 11.02.2019 |

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

EN1 Landscape Character

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

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

LP2 Housing Choice

LP4 Housing Layout

LP5 Affordable and Council Housing

CP1 Sustainable Transport and Accessibility

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SP1 Presumption in Favour of Sustainable Development

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 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

Site Description

The application site located on the southern side of Harwich Road, within the parish of Mistley. The site is currently laid to grass, adjacent to eight dwellings recently constructed following the granting of planning permission 11/00037/FUL. To the south and east, 135 dwellings are currently being constructed under planning permissions 15/01520/OUT and 17/00943/DETAIL. The site falls outside of a recognised Settlement Development Boundary within the Adopted Local Plan 2007, but falls within the Settlement Development Boundary for Mistley within the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

History

Of particular importance to this application is previous planning permission 11/00037/FUL. Within this, permission was granted and implemented for the erection of 15 affordable homes; however changes to the availability of grant funding meant it was not viable to construct all of the properties within a single phase, and therefore only plots 2-9 were constructed, with the remaining seven dwellings not built.

Proposal

This application seeks full planning permission for the erection of eight dwellings. Seven of the dwellings will be available for affordable rent, whilst the eighth (Plot 1) will be developed for market sale.

Plot 1 will be 1.5 storey, with the remaining seven dwellings being two storeys. Four of the dwellings will be served by two bedrooms, and four will be served by three bedrooms.

Assessment

1. Principle of Development

The principle of development for up to 15 dwellings has previously been established following the permission and implementation of planning permission 11/00037/FUL. This proposal will, however, increase the overall number of dwellings to 16. That notwithstanding, the site falls within the settlement development boundary for Mistley within the Emerging Local Plan. Emerging Policy SPL2 is supportive of new residential development in principle in these locations. The acceptability of any detailed proposal depends upon the consideration of planning merits and the impact of the scheme, as outlined below.

2. 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).

The proposal will see an additional eight dwellings located to the northern section of the application site, predominantly fronting Harwich Road. Whilst Plot 1, to the west of the site, is 1.5 storey in height, the remaining properties are to be two storeys, in-keeping with the seven dwellings adjacent to those previously built. This is also in-keeping with the larger scheme adjacent to the east. The site will utilise the existing access that was constructed upon the implementation of 11/00037/FUL to the north-west of the site off Harwich Road.

The design offers a variety of dwelling types, with a mixture of detached, semi-detached and terraced properties. The dwellings also combine a number of key design features to help soften their overall impact, including chimneys, canopy's, brick plinths, front gables and window details. This and a good mixture of materials provide a visual interest throughout the scheme and assists in breaking up the overall built form.

The street scene along Harwich Road to the north is softened by the continuous built form being set behind a proposed hedgerow behind the required visibility splay. The elevations fronting Harwich Road are interesting, with details to all that ensure a visual interest looking into the site.

Within the site itself, following the submission of amended drawings to reduce the height and size of the car port serving plot 16, the layout is considered to be acceptable. Prominent areas are demarcated with strong boundary treatments, whilst there is sufficient space separating properties to ensure the character previously established to the south is maintained.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of two bedrooms should be a minimum of 75 square metres and for a dwelling of three bedrooms or more should be a minimum of 100 square metres. The submitted plans show that these measurements are met for the vast majority of the dwellings, with only Plots 11 and 12 falling just below the standards by 14 and 12 square metres respectively. Given the above, the two plots falling just below is not considered to be significantly harmful to justify a reason for refusal.

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).

Whilst the proposed dwellings are sited in close proximity of each other, there is good spacing between plots to ensure privacy is maintained, whilst natural surveillance of the street and parking areas is achievable. The plots have also been designed to avoid direct overlooking; clearly there is an unavoidable degree of overlooking via first floor rear elevation windows to the semi-detached and terraced properties; however future occupiers will be aware of this arrangement prior to purchasing, so this harm is not considered excessive.

The dwellings are sited a suitable distance apart from the most closely related dwellings to the south, and those currently being constructed to the east to ensure no significant harm to existing or future amenities.

4. Landscaping

The hedge planting to the site frontage provides a break from the public to private space without using harsh treatments such as fencing or walls. This planting helps to both screen and soften the built form being proposed. Landscaping proposed around the individual dwellings will further soften the appearance of the proposal and help it to relate well and compliment with the built form constructed adjacent to the south.

The trees to the western boundary were originally shown to be retained, however as they have succumbed to Dutch Elm Disease, the Council's Tree and Landscapes Officer requested that they be removed and replaced with an alternative species. Accordingly the agent for the application has submitted amended plans to show this.

5. Highways

Essex Highways Authority have stated that subject to a condition relating to the access arrangements, vehicle and parking areas being provided, hard surfaced, sealed and marked out prior to the first occupation the development.

A further condition was requested for a Residential Travel Information Pack; however given that the scheme is a minor application this would not be a reasonable condition to attach to this decision.

Adopted Car Parking Standards state for a dwelling of two or more bedrooms, there should be provision for a minimum of two parking spaces measuring 5.5m x 2.9m or, if being relied upon as one of the parking spaces, a garage should have internal measurements of 7m x 3m. The submitted plans show a number of car ports and garages, all of which meet the requirements, whilst the remaining parking spaces are also all in accordance.

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 3.00 hectares of equipped play and formal open space in Mistley. Therefore due to this lack of provision a contribution is justified, with the money to be spent to provide additional teenage play equipment at Furzes Hill, Mistley.

However, given that an open space contribution was previously paid in relation to application 11/00037/FUL on this site for 15 dwellings, it would be unreasonable to request a contribution to all eight dwellings being applied for within this application. Therefore, a contribution for the one additional dwelling is required.

A completed unilateral undertaking has been provided to secure this legal obligation and to ensure compliance with saved policy COM6.

A deed of variation to the legal agreement submitted under 11/00037/FUL has now been provided to secure the provision of affordable housing. Only plots 2-9 were constructed and the remaining seven affordable dwellings are provided as required under the S106 for 11/00037/FUL with one additional market dwelling in the current proposal. The deed of variation is required to secure the proposed seven affordable units for affordable rent in perpetuity. The total of fifteen affordable dwellings secured under 11/00037/FUL is therefore still secured under that permission and the current proposal representing an acceptable proposal overall.

7. Habitats Regulation Assessment

Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.

Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be the RAMS level contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites. The contribution is secured by unilateral undertaking. There is therefore certainty that the development would not adversely affect the integrity of European Designated Sites in accordance with 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.

Other Considerations

Mistley Parish Council support the application and welcome affordable housing in the village, however do not want construction vehicles to be parked in Harwich Road.

6. Recommendation

Approval.

7. Conditions

- 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, drawing numbers 0448-70, 0448-71A, 0448-72, 0448-73, 0448-74, 0448-75, 0448-76, 0448-77, 0448-78, 0448-79, 0448-80, 0448-81, 0448-82, 0448-83, 0448-84A, 0448-85, 0448-86, 0448-87, 0448-88 and LP01.

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

- 3 Prior to the first occupation of the proposed development the access arrangements, vehicle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The access, parking and turning areas shall be retained in perpetuity for their intended purpose.

Reason: To ensure that appropriate access, parking and turning is provided.

- 4 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details 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 enhance the visual impact of the proposed works.

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 Applicant, 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.

Legal Agreement Informative - Affordable Housing

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Affordable housing in accordance with Policy HG4 of the Saved Tendring District Local Plan 2007 and Policy LP5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Legal Agreement Informative - Open Space/Play Space Contribution

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Public Open Space financial contribution in accordance with Policy COM6 of the adopted Tendring District Local Plan (2007) and Policy HP5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.