

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	TF	4/7/19
Planning Development Manager authorisation:	AN	4/7/19
Admin checks / despatch completed	W SB	5/7/19 05/07/19.

Application: 19/00699/OUT **Town / Parish:** Ardleigh Parish Council

Applicant: Bellway Homes Ltd

Address: 505 Ipswich Road Colchester Essex

Development: Variation of Condition 4 & 9(a) to approved Planning Application 15/00932/OUT - Amendment to approved drawings amending the access and road layout.

1. Town / Parish Council

2. Consultation Responses

ECC Highways Dept

It is noted that this application only concerns condition No 4 and 9 (b). Providing it is understood that condition 1 of application 15/00932/OUT remains valid, the Highway Authority does not object to the proposals as submitted and in accordance with revised drawing no. 3976-130 Rev A subject to a condition with respect to a Residential Travel Plan (note: this was included on the original outline planning permission and has already been submitted and discharged under application ref. 18/00917/DISCON) and as such a condition is proposed to ensure that this is implemented in its approved form) and an informative with respect to highway layout and construction approvals from County Highways.

3. Planning History

15/00932/OUT	Outline planning permission for the erection of up to 120 dwellings (C3) including hard and soft landscaping, public open space, play areas, vehicle parking and supporting site infrastructure with all matters reserved apart from access at Land North of the Former Betts Factory, Colchester.	Approved	2220322066
--------------	--	----------	------------

15/01235/DISCON	Discharge of conditions 9 (landscaping), 10 (landscape management plan) and 21 (details	Approved	06.04.2017
-----------------	---	----------	------------

	of management company) of outline planning permission approved under 12/00885/OUT.		
16/01874/DISCON	Discharge of Condition 12 (Fencing of Bullock Wood) and 16 (Reptile Method Statement) of Planning Permission 15/00932/OUT.	Approved	18.01.2017
17/00560/DISCON	Discharge of condition 8 (Final Code Certificates - Plots 55 to 89) of the approved planning application 12/00885/OUT (Outline planning permission element).	Approved	26.05.2017
17/01477/DETAIL	Reserved matters application for the erection of up to 120 dwellings including hard and soft landscaping, public open space, play areas, vehicle parking and supporting site infrastructure and site access.	Approved	01.12.2017
17/01538/DISCON	Discharge of conditions 5 (Construction Method Statement), 6 (Construction and Environment Management Plan), 8 (Wheel Cleaning facility details), 11 (Parking Strategy), 13 (Landscape Work Details), 14 (Details of Earthworks), 18 (Surface Water Drainage Details) and 20 (Maintenance Plan) of approved planning application 15/00932/OUT.	Approved	01.08.2019
17/01685/DISCON	Discharge of conditions 12 (Fencing Detail) and 15 (Arboricultural Method Statement) of planning permission 15/00932/OUT.	Approved	05.12.2017
17/01825/DISCON	Discharge of Condition 19 (Surface Water Drainage) of Planning Permission 15/00932/OUT.	Approved	15.02.2018
18/00917/DISCON	Discharge of Condition 9 Part B (Residential Travel Information Packs) of 15/00932/OUT.	Approved	14.09.2018
19/00042/DISCON	Discharge of condition 17 (Management Company) of approved Planning Application 15/00932/OUT.	Approved	31.01.2019

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1	Spatial Strategy
QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
QL12	Planning Obligations
HG1	Housing Provision
HG3	Residential Development Within Defined Settlements
HG3A	Mixed Communities
HG4	Affordable Housing in New Developments
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
COM2	Community Safety
COM6	Provision of Recreational Open Space for New Residential Development
COM21	Light Pollution
COM26	Contributions to Education Provision
COM29	Utilities
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN4	Protection of the Best and Most Versatile Agricultural Land
EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation

EN12	Design and Access Statements
EN13	Sustainable Drainage Systems
TR1A	Development Affecting Highways
TR3A	Provision for Walking
TR5	Provision for Cycling
TR6	Provision for Public Transport Use
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
SPL3	Sustainable Design
LP2	Housing Choice
LP1	Housing Supply
LP3	Housing Density and Standards
PPL1	Development and Flood Risk
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
CP3	Improving the Telecommunications Network
LP4	Housing Layout
LP5	Affordable and Council Housing

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 Description

The application site comprises 6.98ha and is generally rectangular in shape. It is bounded to the southwest and northwest by existing and proposed residential dwellings; to the north of Plains Farm (which comprises a listed farm house and agricultural fields); to the east by agricultural fields and to the southeast by Bullock Wood.

The site was previously used as a commercial orchard which became degraded. It lies adjacent to a Site of Special Scientific Interest (SSSI), Bullock Wood, which is a broad leaved woodland that extends to the south in an 'L' shape away from the site.

Work has commenced on site for the construction of 120 dwellings.

Proposal

This application proposes to vary conditions 4 and 9(A) of planning permission 15/00932/OUT which granted outline planning permission with all matters reserved (apart from access) for the erection of 120 dwellings, including hard and soft landscaping, public open space, play areas, vehicle parking and supporting site infrastructure.

Condition 4 states the following:

Development shall be carried out in accordance with:

- *Location Plan 2200-A-1000-D*
- *Site Plan 2200-A-1001-H*
- *Land Use Parameter Plan 2200-A-1400-F*
- *Building Heights Parameter Plan 2200-A-1401-F*
- *Green Infrastructure Parameter Plan 2200-A-1402-H*
- ***Access Link Road General Arrangement Plan 8558-SK-011-B***

Unless otherwise agreed in writing by the Local Planning Authority.

The applicants are proposing to vary condition 4 to reflect an amended alignment to the access arrangements. They advise that following extensive liaising "...with the Local Highway Authority (ECC) regarding the Root Protection Areas (RPA) of trees located in the adjacent woodland, it is necessary to amend the approved drawing [Access Link Road General Arrangement Plan 8558-SK-011-B] to provide an access arrangement that avoids the RPA. As a result, [amended] ...drawing ref: J9776-130 Rev. A has been prepared to provide a safe and adequate access following discussions with ECC. The proposed access has been agreed with the Local Highway Authority."

Accordingly, for completeness, this application has been submitted to vary Condition 4 to substitute the previously approved 'Access Link Road General Arrangement Plan' with amended drawing 'Highway Access Plan' ref. J976-130 Rev A.

The applicant has advised that due to the proposed amendment to Condition 4, it is also considered necessary to update the wording of Condition 9 of the outline planning permission. Condition 9 states that occupation should not occur until the link is provided. Condition 9 is currently worded as follows:

No occupation of the development shall take place until the following have been provided or completed:

- (a) *An extension of the proposed estate road layout for the former Betts Factory Site to provide access to the proposed site as shown in principle on the **Access Link Road General Arrangement Plan**.*
- (b) *Residential Travel Information Packs*

It is proposed that the wording of Condition 9 is varied to specify exactly which drawing the access link should be built in accordance with, to mirror the variation to Condition 4. The current approved wording only makes reference to a drawing title, no reference is made to the approved drawing reference. It is therefore proposed that condition 9 is varied to be worded as follows:

No occupation of the development shall take place until the following have been provided or completed:

- (a) *An extension of the approved estate road layout for the former Betts Factory Site to provide access to the proposed site as shown in principle on **approved drawing ref. J976-130 Rev. A***
- (b) *Residential Travel Information Packs*

It should be noted that Part B of condition 9 has previously been approved under application ref. 18/00917/DISCON, approved 14 September 2018. Accordingly, notwithstanding the above proposed rewording specified by the applicant it is recommended that part B also be varied to reflect the fact that part B has been approved.

Appraisal

Impact of Changes/Highway Considerations

The changes to the scheme relate solely to the alignment of the access link road. The re-alignment has been subject to discussions and agreed with the Local Highway Authority and will clearly be beneficial in protecting existing trees in the adjacent woodland by avoiding their root protection areas. Accordingly, it is considered that the access road alignment shown on drawing no. J976-130 Rev A is acceptable.

Legal Agreement/Conditions

The legal agreement secured at outline stage under planning permission reference 15/00932/OUT contains a mechanism which allows it to be applied to subsequent section 73 applications. A letter advising the developer that the Council will be relying on the original legal agreement has been sent and agreed.

The reserved matters application has been approved and works have commenced on site. Furthermore, several conditions on the original outline permission have been discharged. As a result, the time limit conditions will be removed and those conditions already discharged will be updated to reflect the approved details.

RAMS

Having considered the proposed avoidance and mitigation measures outlined within the Essex Coast Recreational disturbance Avoidance & Mitigation Strategy (RAMS), the Council conclude that in this instance it would be unreasonable to seek mitigation measures. The development has commenced and this application relates solely to a re-alignment of the access link road.

Natural England has confirmed that ultimately in a situation where the RAMS has emerged after the original application was registered, it is down to Tendring District council to decide whether this proposal lies within the scope of RAMS or not. Consideration should also be given to whether a previous HRA has been undertaken and if so, what the findings of this were, including any mitigation sought.

As stated above the original planning permission has been implemented through the commencement of works on site. This application relates to minor changes to the alignment of the access link road and does not propose to increase the numbers of dwellings built. It is the Council's view that it would be unreasonable to seek mitigation in this instance.

6. Recommendation

Approval - Outline

7. Conditions / Reasons for Refusal

1. Development shall be carried out in accordance with:

- Location Plan 2200-A-1000-D
- Site Plan 2200-A-1001-H
- Land Use Parameter Plan 2200-A-1400-F
- Buildings Heights Parameter Plan 2200-A-1401-F
- Green Infrastructure Plan 2200-A-1402-H
- Highways Access Plan J976-130 Rev A

Unless otherwise agreed in writing by the Local Planning Authority.

Reason - For the avoidance of doubt and in the interests of securing the parameters of development.

2. The development should be constructed in accordance with the noise, emissions and light pollution control measures outlined in the Construction and Environmental Management Plan (CEMP) as approved under planning reference 17/01538/DISCON.

Reason - To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

3. The development shall be constructed in full accordance with the Construction and Environmental Management Plan (CEMP) approved under planning reference 17/01538/DISCON.

Reason - In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

4. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the Construction Management Plan, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of the Council, which shall be approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which shall be approved in writing by the Local Planning Authority.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors.

5. The wheel washing facility forming part of the Construction and Environmental Management Plan approved under planning reference 17/01538/DISCON shall be provided and retained during construction of the development.

Reason - To protect highway efficiency of movement and safety.

6. No occupation of the development shall take place until the following has been provided or completed:

(a) An extension of the approved estate road layout for the former Betts Factory Site to provide access to the proposed site as shown in principle on approved drawing reference J976-130 Rev A.

Furthermore, the development shall be in accordance with the part (b) requirement for 'Residential Travel Information Packs' and as submitted and approved under planning reference 18/00917/DISCON.

Reason - To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport, cycling and walking.

7. Notwithstanding the provisions of Class A of Part 1 Schedule 2 of the Town and Country Planning General Permitted Development Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), any garage accommodation forming part of the parking strategy for the development shall be retained for parking motor vehicles at all times and shall not be adapted to be used for other purposes unless agreed in writing by the Local Planning Authority.

Reason - To retain adequate on-site parking provision in the interests of highway efficiency.

8. The development shall be constructed in full accordance with the parking strategy shown on drawing no. BW175-PL-08 Rev. 00 Parking Strategy (dated August 2017) and approved under planning reference 17/01538/DISCON. The parking shall be provided prior to the first occupation of the proposed development hereby permitted and shall be maintained free from obstruction at all times for that sole purpose in perpetuity.

Reason - To ensure that sufficient and suitable parking is provided within the development in accordance with the adopted Parking Design and Good Practice Standards.

9. The means of enclosure of Bullock Wood shall be provided strictly in accordance with the Landscape Management Plan prepared by Matt Lee Landscape Architecture dated 2 October 2017; drawing no. PR109-03 Rev.A and letter from Natural England dated 21 November 2017 and as approved under planning reference 17/01685/DISCON.

Reason - To ensure that a suitable means of securing Bullock Wood is implemented prior to development commencing and in the interests of habitat management.

10. The development shall be constructed in accordance with the landscape works details as shown on drawing nos. PR109-01, PR109-03 Rev. A, BW175-PL-05; Landscape Management Plan; information produced by Matt Lee Architecture (MLA) both dated 6 October 2017 and e-mail from MLA dated 13 November 2017; and letter from Environment Agency dated 21 November 2017, as approved under planning reference 17/01538/DISCON.

Reason - To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users; to ensure the development will not impact upon the features of special interest for which Bullock Wood SSSI is notified; and to satisfactorily integrate the development within its surrounding landscape in the interests of visual amenity.

11. The development shall be constructed in full accordance with the earthworks details shown on drawing no. J9750-002 approved under planning reference 17/01538/DISCON.

Reason - To ensure that any earthworks are acceptable in relation to their surroundings.

12. The development shall be constructed in full accordance with the details shown within the submitted 'Arboricultural Method Statement', and on drawing nos. 1 Tree Survey, Retention and Removal Plan Sheet 1 of 2 and Sheet 2 of 2, Rev. 1, as approved under planning reference 17/01685/DISCON.

Reason - To safeguard the continuity of amenity afforded by existing trees and hedgerows.

13. Prior to the commencement of development a detailed Reptile Method Statement shall be prepared specifying the measures to protect and maintain the reptile population of the site during and following development. The method statement shall be agreed in writing by the Local Planning Authority in consultation with Natural England and implemented in accordance with the approved statement.

Reason - To ensure the proposal does not adversely affect any protected species.

14. The development shall be implemented in accordance with the Management Company details for the communal storage areas as shown on drawing no. 8598-2822 Rev. C6 and letter dated 11 December 2018 (ref. RH/LC/3.1) as approved under planning reference 19/00042/DISCON. The agreed details shall be implemented and continue unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason - To ensure that the communal storage areas are maintained to a satisfactory condition and to avoid any potential adverse impact on the quality of the surrounding environment.

15. The surface water strategy shall be constructed in accordance with the details shown on the following plans/documents approved under planning reference 17/01538/DISCON:

- Drawing no. J975-004
- Drawing no. J975-005 Rev. A

- Drainage Calculations dated 29, 30 August 2017 and 7 November 2017
- Trial Pit Soakaway Test dated 2 November 2017
- Infiltration Test Location Plan

Reason - To prevent the increased risk of flooding by ensuring the satisfactory storage of/disposal of surface water from the site, and ensure future maintenance of the surface water drainage system.

16. The development shall be constructed in accordance with the scheme to minimise the risk of offsite flooding caused by surface water run-off during construction works as detailed in the Construction Environmental Management Plan (CEMP) and Construction Method Statement (CMP) as approved under planning reference 17/01825/DISCON.

Reason - The National Planning Policy Framework states that local planning authorities should ensure flood risk is not increased elsewhere in the development.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoil's during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate against increased flood risk to the surrounding area during construction therefore, there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

17. Prior to commencement of the development a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies shall be submitted to, and agreed in writing by the Local Planning Authority.

Reason - To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

18. The adopting body responsible for maintenance of the surface water drainage system shall record yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These shall be made available for inspection upon a request by the Local Planning Authority.

Reason - To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

19. The maximum number of dwellings to be contained in the development shall not exceed 120.

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

8. Informatives

Highways Informative:

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 or by post to:

SM01 – Essex Highways
Colchester Highways Depot

653 The Crescent
Colchester
C04 9YQ

The Highways 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.

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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