

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	16/07/2019
Planning Development Manager authorisation:	AN	22/7/19
Admin checks / despatch completed	SB	22/07/19

Application: 19/00203/FUL **Town / Parish:** Frinton & Walton Town Council

Applicant: Mr & Mrs J Barry

Address: 132 Kirby Road Walton On The Naze Essex

Development: Proposed dwelling - resubmission of approved application 16/00732/FUL.

1. Town / Parish Council

Frinton and Walton Town Council

REFUSAL - out of keeping with the street scene. Over development of the site and garden grabbing.

2. Consultation Responses

ECC Highways Dept

The information that was submitted in association with the application has been fully considered by the Highway Authority.

The proposal will utilise the existing vehicular access and includes adequate space for off street parking and turning within the curtilage, therefore:

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

1. Prior to occupation of the new dwelling a new vehicular access for 132 shall be constructed at right angles to the highway boundary for and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 3.7 metres (4 low kerbs), shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.

2. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

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

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

4. 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.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the

construction period in the interest of highway safety in accordance with policy DM1.

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

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

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

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

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

Informative 2: 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 3: 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:

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

3. Planning History

07/00103/FUL

Erection of detached dwelling.

Approved

16.05.2007

10/00477/FUL	Erection of detached dwelling. (Extension of time on previously approved application 07/00103/FUL).	Refused	01.07.2010
16/00732/FUL	Proposed detached dwelling with integral garage and vehicular access to existing dwelling.	Approved	08.07.2016
17/00480/DISCON	Discharge of Condition 3 (Materials), 4 (Screen Walls and Fences) & 7 (CMS) of Planning Permission 16/00732/FUL.	Approved	11.05.2017

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

QL11 Environmental Impacts and Compatibility of Uses

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

TR1A Development Affecting Highways

EN6 Biodiversity

HG3 Residential Development Within Defined Settlements

EN11A Protection of International Sites European Sites and RAMSAR Sites

COM6 Provision of Recreational Open Space for New Residential Development

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

- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- CP1 Sustainable Transport and Accessibility
- CP2 Improving the Transport Network
- HP5 Open Space, Sports & Recreation Facilities

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 (2019) 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 relates to 132 Kirby Road, Walton-on-the-Naze, a detached dwelling on the northern side of Kirby Road within the defined Settlement Development Boundary and Parish of Frinton.

The dwelling was served by a detached single garage building to the side (within application site area) which has now been demolished and a fence erected dividing the site. The application site is to the west of the donor property and has now been cleared.

Description of Proposal

The application seeks planning permission for the division of the site and the erection of a two-storey detached dwelling with integral garage.

The application follows a previous approval for the same development approved on 08.07.2016. The permission was therefore extant at the time this current application was received.

The existing vehicular access is to serve the new dwelling with a new vehicular access created to serve the donor property. The frontages will provide hard surfaced areas for parking and turning with the new dwelling also having a garage.

The new dwelling is to be finished in facing brickwork and roof tiles in keeping with the area (details of which are detailed on the accompanying plans).

Assessment

The main considerations in this instance are;

- Principle of Development;
- Planning History;
- Design & Appearance;
- Highway Safety and Parking;
- Residential Amenity, and;
- Other Considerations.

Principle of Development

The site lies within the Settlement Boundary for Frinton, as defined within the saved Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). The principle of residential development is therefore acceptable. Neither can there be any objection in principle to the erection of a detached house in terms of the character of the location.

Rather, the acceptability of what is proposed depends upon the impact having regard to the character of the area, amenity and environmental considerations and the various detailed requirements of local plan policies, standards and guidance designed to ensure that new development relates satisfactorily to its surroundings, without harming amenity or raising highway concerns.

Planning History and Legal Obligation

An application for a very similar development for a detached dwelling was approved under planning application 07/00103/FUL. Later in 2010 the development was applied for again being refused but only on the lack of an agreement to make a financial contribution toward public

open/play space in accordance with Policy COM6 of the adopted Tendring District Local Plan 2007. This issue is addressed in 'Financial Contribution - Open/Play Space' below.

Design and Appearance

The proposed dwelling is basically a handed version of that previously approved in 2007 (other than the garage is now flat roofed) meaning that the two-storey forward projecting gable sits to the right of the proposed dwelling being in keeping with the design of the two immediate neighbouring properties.

The proposed dwelling is of a comparable span and footprint to its neighbours and the design, proportions and detailing adequately reflect adjoining development. At first floor in the streetscene there is a distance of 2.9m and 1.8m separating the dwelling from its neighbours maintaining an adequate distance to prevent the dwelling appearing cramped also being considered a better arrangement than the original approval in that the proposed dwelling is now more evenly spaced.

The dwelling is to be finished in brick and tiles in keeping with the character of the immediate dwellings.

The proposal will sit comfortably within its site and surroundings and will not appear out of keeping or harmful within the street scene.

The development cannot be considered over-development or cramped due to the spacious frontage and rear garden and the scale of the dwelling being in keeping with the locality.

Highway safety

The proposed access arrangements differ from the original approval and reflect to the most recent approved scheme in that 2 separate accesses are proposed where a wider, shared point of access was originally approved.

Highways have no objection to the proposed development subject to conditions which will be imposed where relevant and reasonable. The approved plans condition will secure the majority of the highway requirements.

Residential amenity

The revised design (to that previously approved) is considered to result in a better relationship with the neighbouring dwellings in that the spacing between them have improved and the relationship of single storey/two-storey elements of the proposed dwelling in relation to neighbouring boundaries and windows is also improved.

The adjoining neighbour has only high level windows on the facing elevation as does the proposed dwelling removing any overlooking concerns. The proposed dwelling is sited in line with both neighbours and due east/west removing any overshadowing concerns. The introduction of additional first floor rear facing windows, where there is currently none, is not considered to result in any material loss of privacy or harmful overlooking having regard to existing first floor windows in the existing properties and that these windows do not serve main living areas only bedrooms.

Financial Contribution - RAMS

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.

This application is accompanied by a unilateral undertaking securing a proportionate financial contribution in line with the Essex Coast RAMS requirements to ensure that this proposal will not have an adverse effect on the integrity of the nearby European sites from recreational disturbance, when considered 'in combination' with other development.

Financial Contribution - Open/Play Space

There is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton & Kirby. However, there is more than adequate formal open space across the area. Although there is a deficit of play and open space in Walton, it is not felt that this development would impact the current play facilities due to the distance of the site from these facilities.

No contribution is being sought in this instance.

Representations

Frinton and Walton Town Council recommend refusal of the application as they consider it to be out of keeping with the street scene, overdevelopment of the site and garden grabbing.

For the reasons set out above the proposal is considered to be acceptable in terms of the street scene impact and overall character of the area. The proposed dwelling is to be located to the side of number 132 and not within its rear garden and cannot be considered to constitute 'backland' or 'garden grabbing' development. Both the donor dwelling and new property will have private amenity areas in excess of that required by policy HG9 of the Saved Local Plan.

No other letters of representation have been received.

Conclusion

It is considered that the proposed design and form is in keeping with neighbouring development and the plot can satisfactorily accommodate the proposed dwelling with no significant adverse impact upon neighbouring amenity or highway safety. Furthermore, this is a sustainable location where more efficient use of land should be encouraged.

6. Recommendation

Approval - Full

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, materials details and site set up details: Drawing No BWR-01 Revision A, Drawing No BWR-02 Revision A and Drawing No BWR-03 Revision A.

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

- 3 No unbound materials shall be used in the surface treatment of the proposed vehicular accesses throughout.

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

- 4 Prior to first occupation of the proposed development, the proposed vehicular accesses shall be constructed or reconstructed at right angles to the highway boundary and to a width of 3.7 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

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

- 5 All new parking areas and areas of hardstanding 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 within the site.

Reason - In the interests of sustainable development and to minimise the risk of surface water flooding.

8. Informatives

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.

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.

Highways Informatives

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Informative 4:

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 to ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety.