

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8

5. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety in accordance with policy DM1

6. 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.

7. 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.

8. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway/carriageway (delete as appropriate).

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway/carriageway (delete as appropriate) is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative 1: Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

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 specifications of the Highway Authority; all details shall be agreed before the commencement of works.

Essex County Council
Archaeology

The above application has been identified on the weekly list as having archaeological implications.

The proposed development comprises the conversion of an undesignated historic barn. The cartographic evidence associated with the Historic Environment Record shows the farm complex in existence in the 19th century, at that period being much more extensive than it is today. Cartographic evidence also shows that the farm complex was in existence in 1777 as it is marked on the Chapman and Andre maps.

The following recommendation is made in line with NPPF:

Recommendation: Building Record

'No demolition or conversion works of any kind shall take place until the applicant has secured the implementation of a programme of archaeological recording in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority'

Further Recommendations:

A professional team of archaeologists should undertake the archaeological work. A brief outlining the level of archaeological recording will be issued from this office on request. The District Council should inform the applicant of the recommendation and its financial implications.

3. Planning History

93/00215/FUL	Continued use for car valeting business [renewal of planning permission TEN/1374/90 and TEN/91/0162]	Approved	31.03.1993
94/01398/FUL	Continued use of premises for car valeting and additional use for display and sale of cars	Refused	07.03.1995
96/01005/FUL	Conversion of barn into residential unit	Refused	01.10.1996
97/00458/FUL	Barn conversion to residence	Refused	27.05.1997
05/01148/FUL	Two storey extension to provide kitchen, utility room, wc, dressing room, ensuite and new master bedroom.	Approved	23.08.2005
91/00162/FUL	Variation of Condition 7 of TEN/1374/90 to allow additional working hours of 1pm until 6pm Saturdays and 9am to 12 non	Approved	24.04.1991

	Sundays.		
09/01311/FUL	Erection of first floor and two storey extensions (revised scheme to that approved under planning permission 05/01148/FUL).	Refused	05.02.2010
10/00215/FUL	Erection of two storey rear extension and first floor rear extension.	Approved	30.04.2010

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

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

ER11 Conversion and Re-Use of Rural Buildings

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

LP3 Housing Density and Standards

LP4 Housing Layout

SPL1 Managing Growth

SPL3 Sustainable Design

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

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

Site Description

The application site is Church Farm House, which is a two storey dwelling located at the junction of Lodge Lane and School Road, within the parish of Tendring. The building specifically the subject of this application is a traditional timber framed barn currently used for domestic storage located to the south-east of the main dwelling. There is a lean-to element to the southern gable that is used for the keeping of chickens.

This section of Lodge Lane contains sporadic residential dwellings, either detached or semi-detached, while Tendring Primary School is sited approximately 75 metres to the west. The site falls outside of a recognised Settlement Development Boundary within both the Saved Tendring District Local Plan (2007) and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Description of Proposal

This application seeks planning permission for the conversion of the existing outbuilding into a residential dwelling to be served by four bedrooms.

Works involved will see the demolition of the lean-to on the southern gable as well as dilapidated structures occupying the northern range, and the construction of a kitchen/breakfast and garage area to the northern elevation.

Assessment

1. Principle of Development

Policy ER11 of the Adopted Local Plan 2007, relates to the re-use or conversion of rural buildings for business purposes. Whilst this does not, therefore, deal with the re-use or conversion of a rural building for residential purposes the thrust of the policy and its considerations would appear applicable:

a) the type and scale of activity proposed and its compatibility with the character of the surrounding area;

The site is not situated within a Settlement Development Boundary, as defined by both the adopted Tendring District Local Plan (2007) and emerging Publication Draft (2017). However it is noted that within a recent appeal decision in close proximity (appeal reference APP/P1560/W/18/3213566 – The Fat Goose Public House, Heath Road, Tendring, dated 31 May 2019) the Inspector confirmed “the location of the proposed development may be considered suitable in terms of social and economic considerations.” The site is therefore considered to be a sustainable location for residential occupation. Further, the proposed residential use of the building is in-keeping with the immediate surrounding area that sees a scattering of residential properties to the east and further out to the west.

b) the suitability of the building for the use proposed;

The building is of a good size, comfortably able to accommodate the one residential dwelling being proposed. While some minor alterations are proposed as part of the scheme, the building will largely remain as existing. There is also sufficient amenity space to meet the requirements of Policy HG9 of the Saved Tendring Local Plan 2007.

c) the level of traffic generated;

There is not considered to be significant additional traffic generated as a result of one residential dwelling. Further, alternative commercial uses would involve a likely higher volume of traffic, and therefore the proposed residential use is preferable.

d) the effect on the external appearance of the building;

The proposal is predominantly a change of use of an existing building. However given some elements of the building are in a poor state of repair the plans proposed to remove the lean-to extension to the southern elevation and replace a section to the northern elevation. It is noted the form of the new build element to the northern elevation will maintain the existing layout.

The most important elevation is the western elevation given the prominent views from School Road to the west. The plans have directed new fenestration to the less conspicuous eastern elevation to ensure views of the western elevation are less altered. The roof is to be replaced with slate and clay pantile, which is seen as an enhancement to the existing structure, while the external wall materials will be re-used where possible, with new materials to be black timber weatherboarding. This results in the buildings traditional appearance being maintained and in some parts enhanced. The design is therefore considered to be of good visual merit, making great effort to incorporate the design within the surrounding landscape and minimise the harm to the existing buildings, and will therefore be a positive addition in reinvigorating this non-designated heritage asset.

e) the scale and visual impact of any open storage areas associated with the proposed use;

This criterion is not applicable.

f) the location of the building in relation to other buildings, the landscape and the highway network;

The building is sited forward of the adjacent dwelling to the west but set back from the residential properties located to the east. The building is rather prominent but positively contributes to the local landscape.

Essex County Council as the Highways Authority have stated they do not object to the proposal, subject to conditions relating to a vehicular turning facility, no discharge of surface water, the use of no unbound materials, and any gates being set back a minimum of 6 metres from the highway.

Additional conditions relating to cycle parking provision and the submission of a Residential Travel Information Pack were requested. However there is sufficient space within the site to accommodate cycle parking, and the development is not large enough to justify a residential travel information pack, so these two recommended conditions would not have been included had the application been recommended for approval.

Adopted Car Parking Standards state that for a dwelling of two or more bedrooms, provision should be made for a minimum of two parking spaces measuring 5.5m x 2.9m or a garage, if being used as one of the parking space, should have a minimum internal measurement of 7m x 3m. While the proposed garage does not meet these requirements, there is significant space to the side of the dwelling to accommodate the necessary parking.

g) the impact on local amenity; and

There are neighbouring properties located to the north-west and south-east. However, given there is an existing separation distance of 4m and 10m respectively, and that the building is in existence, there is not considered to be any significant loss of light. The building will remain single storey, thereby significantly reducing overlooking opportunities. It is acknowledged a neighbouring letter has raised concerns regarding a potential loss of privacy as a result of the proposed glazing to the eastern elevation. While these comments are noted, upon undertaking a site visit it is clear there is a 1 metre high hedge. Given this, the single storey nature of the building and a separation distance of 10 metres, there is not considered to be significant loss of privacy.

h) the impact on the historical value of the building.

While the building is not a designated heritage asset by virtue of neither being listed nor sited within a Conservation Area, the building does display a considerable degree of historic and architectural features. As such it is recognised as a non-designated heritage asset worthy of preservation. As previously stated, the works involved are to elements of the building in a poor

state of repair and will therefore result in an enhancement to the existing structure. Main views are from School Road to the west, and accordingly the western elevation sees less alteration. The proposal will therefore result in an enhancement to the historical value of the building.

2. Biodiversity

Given the impacts of the proposal to an area that has the potential to be occupied by bats and barn owls, a Phase 1 Habitat Survey has been submitted. The survey has confirmed barn owls are not currently using the site and that there is a likely presence of a common pipistrelle and brown long-eared bat day / night / transitional roost within the main barn, and an occasionally used brown long-eared bat feeding perch, with small numbers of other roosting bat species possible. However the presence of large numbers of roosting bats, or a breeding roost appears highly unlikely.

To determine whether bats are still using the buildings to roost during the active season, two to three dusk/dawn surveys should be carried out between May and September inclusive, with at least one/two of the surveys between May and August. This would have been attached as a condition to this decision had it been recommended for approval.

None of the buildings are likely to be used as a roost which will require the provision of a purpose built loft space as mitigation following the conversion works. It is very likely that any roosts present will be adequately mitigated for within the external fabric of the converted building with the current proposed layout and design. Future design changes following bat surveys are very unlikely to be required.

The report also highlights a number of mitigation measures, including the installation of bat boxes, any external lighting being located at a height of 2 metres or lower, and that building works should commence during October to February inclusive. These measures would have been attached as conditions had the application been recommended for approval. Therefore, subject to these mitigation measures no significant residual effects would be anticipated as a result of the proposed scheme.

3. Tree and Landscapes Impacts

No trees or other significant vegetation will be affected by the development proposal.

The site benefits from an existing boundary hedge comprising of primarily Hawthorn. There is a young Horse Chestnut in, or close to the hedge, which adds to the appearance on the public realm but will not be affected by the development proposal.

4. 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"*.

There is currently a deficit of -1.33 hectares of equipped play/formal open space in Tendring, with the nearest play area, Heath Road, located approximately 0.3 miles apart. Due to the close proximity of the play area to this development a contribution towards play is justified and relevant to the planning application. The contribution would be used towards providing new equipment at the play area in Heath Road.

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

5. Habitats Regulation Assessment

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means

that all residential development must provide mitigation. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) in particular the Hamford Water Ramsar and SPA site, mitigation measures will need to be in place prior to occupation.

A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Other Considerations

Tendring Parish Council have no objection to the proposed development.

There has been one letter of observation received, where the following concerns were raised:

1. Loss of privacy; and
2. Noise through use of proposed garden;

In response to this, point 1 has been addressed within the main body of the report. With regards to point 2, the proposal represents a change of use of an existing structure to one dwelling. There is not considered to be significant noise issues relating to this, and there is no reasonable means for the Local Planning Authority to control this.

6. Recommendation

Refusal.

7. Reasons for Refusal

- 1 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) in particular the Hamford Water Ramsar and SPA site, mitigation measures will need to be in place prior to occupation.

A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

- 2 Paragraph 54 of the National Planning Policy Framework (2019) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

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

There is currently a deficit of -1.33 hectares of equipped play/formal open space in Tendring, with the nearest play area, Heath Road, located approximately 0.3 miles apart. Due to the close proximity of the play area to this development a contribution towards play is justified and relevant to the planning application. The contribution would be used towards providing new equipment at the play area in Heath Road.

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

8. Informatives

Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.