

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	JE	06/08/19
Planning Development Manager authorisation:	SN.	6/8/19.
Admin checks / despatch completed	AP	6/8/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	AN	6/8/19

Application: 19/00682/FUL **Town / Parish:** Frating Parish Council

Applicant: Mr Gary Dingwall

Address: Land North of Tokely Road Frating Essex

Development: Variation of condition 3 of approved application 18/00194/FUL to add references to 1138-01A Frating soft works, 1138-02B Frating hard works and 1138-03 Ecological Enhancement

1. Town / Parish Council

Frating Parish Council No objection to this application.

2. Consultation Responses

ECC Highways Dept No comments received

Tree & Landscape Officer The information provided in relation to soft landscaping is comprehensive and will satisfactorily enhance the character and appearance of the development.

The drawing submitted ref 1138-01A appears to be the same as that submitted with planning application 19/00612/DISCON in relation to the discharge of condition 3 of planning permission 18/00194/FUL.

Notwithstanding the above; the information provided adequately demonstrates that a satisfactory level of soft landscaping will be carried out.

Environment Agency No comments received.

Natural England No comment to make on the variation of condition 3.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again.

Essex Wildlife Trust No comments received.

Essex County Council
Archaeology No comments received.

ECC SuDS Consultee Having reviewed the planning application and the associated documents which accompanied the planning application, we have identified that this is for a variation of condition 3 and does not relate

to surface water drainage. Therefore, we shall have no further comments accordingly in relation to this application.

Essex County Council
Archaeology

An archaeological evaluation has been completed for the above site as a condition on an earlier application 14/01371/OUT. The evaluation did not reveal any significant archaeological remains and no further work was required. A report has been received and approved by this office, therefore there are no recommendations for conditions on the above application.

3. Planning History

14/01371/OUT	Outline application with all matters reserved (except for principal means of access) for a residential development comprising up to 49 dwellings (including up to 40% affordable housing), open space and vehicular access from Tokely Road.	Refused	24.12.2014
16/01152/DETAIL	Reserved matters application for details of layout, appearance, scale and landscaping pursuant to appeal decision APP/P1560/W/15/3014909 (TDC planning ref 14/01371/OUT) relating to a residential development of 49 dwellings.	Approved	01.12.2016
18/00194/FUL	Erection of 67 dwellings.	Approved	08.03.2019
19/00612/DISCON	Discharge of conditions 3) Landscaping Scheme & 10) Boundary Walls/Fences - to Approved Planning Application 18/00194/FUL.	Withdrawn	04.06.2019
19/00613/DISCON	Discharge of conditions 17) Environmental Construction Management Plan - to Approved Planning Application 18/00194/FUL.	Approved	05.06.2019
19/00614/DISCON	Discharge of conditions 4) Protection of Trees - to Approved Planning Application 18/00194/FUL.	Withdrawn	26.04.2019
19/00617/DISCON	Discharge of conditions 6) Site Levels, 11) Surface Water Drainage Scheme, 12) Off Site	Current	

Flooding & 13) Foul Water Strategy
to approved Planning Application
18/00194/FUL.

19/00626/DISCON	Discharge of condition 15 (Materials) to approved Planning Application 18/00194/FUL.	Approved	08.05.2019
19/00627/DISCON	Discharge of condition 9 (Cycle Storage) to approved Planning Application 18/00194/FUL.	Approved	31.05.2019
19/00682/FUL	Variation of condition 3 of approved application 18/00194/FUL to add references to 1138-01A Frating soft works, 1138-02B Frating hard works and 1138-02B Frating hard works.	Current	
19/00684/DISCON	Discharge of condition 20 (RAMS) of approved application 18/00194/FUL.	Current	
19/00686/NMA	Non-material amendment of application 18/00194/FUL to extend small section of brick work at ground floor next to entrance doors for Maisonettes 1B2P and 2B4P and Housetype 3B5P.	Approved	28.05.2019

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL2 Promoting Transport Choice

QL3 Minimising and Managing Flood Risk

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

COM1 Access for All

COM6 Provision of Recreational Open Space for New Residential Development

COM24 Health Care Provision

COM26 Contributions to Education Provision

COM29 Utilities

COM30 Electricity Supply

COM31A Sewerage and Sewage Disposal

EN1 Landscape Character

EN4 Protection of the Best and Most Versatile Agricultural Land

EN6 Biodiversity

EN6A Protected Species

TR1A Development Affecting Highways

TR2 Travel Plans

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)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

PP12 Improving Education and Skills

PPL1 Development and Flood Risk

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

Essex Design Guide

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 site lies to the north of Tokely Road, to the east of Bromley Road, and to the west of an industrial estate. Open farmland lies to the north. Although outside of the settlement boundary, as defined by the 2007 Adopted Local Plan, the site has been included within the settlement boundary in the context of the emerging Local Plan.

The site had benefit from an extant planning permission allowed at appeal Ref: 14/01371/OUT for 49 dwellings, in conjunction with areas of open space. Full planning permission was subsequently granted under planning ref. 18/00194/FUL to increase site density to provide 67 dwellings, without significant reduction in the extent of open space provision. The development is to be accessed off

Tokely Road with a separate shared cycleway and pedestrian access onto Bromley Road and 30% of the dwellings would be affordable.

Proposal

This application proposes to vary Condition 3 (hard and soft landscaping) of planning permission 18/00194/FUL which granted full planning permission for the erection of 67 dwellings.

Condition 3 states the following:

No development shall take place until there has been submitted to and approved in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and be in accordance with Drawing No. PR121550-03.

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 or species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

The applicants purely seek to vary the condition to add reference to drawing nos. 1138-01A (Frating Soft Works), 1138-02B (Frating Hard Works) and 1138-03 (Ecological Enhancement)

Appraisal

Impact of Changes

The changes to the scheme relate solely to greater clarification on the hard and soft landscaping works and ecological enhancements. These detailed landscape and ecological works are considered acceptable and have not generated any consultee objections and accordingly it is considered acceptable to vary condition 3 of planning approval ref. 18/00194/FUL. Indeed, as the submitted details essentially discharge the condition, the re-wording of the condition reflects this and refers to the works being in accordance with the above-mentioned drawings.

Legal Agreement/Conditions

The legal agreement secured with the full application approval reference 18/00194/FUL 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.

Work has commenced on-site and several conditions on the original full permission have been discharged. As a result, the time limit condition will be removed and those conditions already discharged will be updated to reflect the approved details.

RAMS

The application purely seeks a variation to condition 3 of the original approval to include detailed hard and soft landscaping plans and an ecological enhancements plan. The changes do not result in an increase to the number of properties proposed or the number of bedrooms. As such the original legal agreement secured with the full planning permission does not require updating. The Agreement also includes wording which allows it to be applied to any Section 73 application to vary the original permission.

In respect of RAMS the original permission included a condition seeking to secure a scheme for the mitigation of the recreational impact of the development on protected Essex Coast Habitats

(European) Sites. Since the approval the Council, following legal advice and input from Natural England, has sought to secure financial contributions 'in lieu' of a condition. However, given that this application seeks to simply supplement the approved plans and not increase the number of dwellings it is not considered reasonable to secure a financial contribution via a legal agreement. Furthermore, the RAMS-specific condition (condition 20 of the original consent) has recently been discharged, and as such it is now conditioned to ensure that the proposed mitigation measures are implemented in their agreed form.

Representations

Frating Parish Council has raised no objection.

1 letter has been received from a local resident who adjoins the main access to the site. This raises no objection to the application but enquires to whether a brick wall could replace their current timber fence along the common boundary.

Such a requirement was not sought through the 'original' planning permission and there is no planning justification to seek this enhancement through this application.

6. Recommendation

Approve - Full

7. Conditions / Reasons for Refusal

- 1 The development hereby permitted shall be carried out in accordance with the following approved Drawing Nos. PR121550-03, 1138-01A (Frating Soft Works), 1138-02B (Frating Hard Works), 1138-03 (Ecological Enhancement), 1732 P-01, 1723 P-02 Rev. C, 1723 P-03 Rev. B, 1723 P-04 Rev. A, 1723 P-05, 1723 P-06 Rev. B, 1723 P-07, 1723 P-08, 1723 P-09 Rev. A, 1723 P-10, 1723 P-10, 1723 P-11 Rev. B, 1723 P-12 Rev. B, 1723 P-14, 1723 P-15, 1723 P-16 and 1723 SLP-01.

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

- 2 The development shall be constructed in accordance with the landscape and ecology works details as shown on drawing nos. 1138-01 Rev. A (Soft Works), 1138.02 Rev. B (Hard Works) and 1138-03 (Ecological Enhancement)

Reason - In the interests of visual amenity and the character of the area.

- 3 The development shall be carried out in accordance with the approved Tree Protection Plan drawing no. PR121550-03, including temporary protective fences as shown. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected. Any trees dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with trees of appropriate size and species during the first planting season, or in accordance with such other arrangement as may be agreed in writing with the Local Planning Authority, following the death of, or evere damage to the trees.

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

- 4 Prior to the first occupation of any dwelling hereby permitted a Landscape Management Plan and Surface Water Maintenance Plan shall be submitted to, and approved in writing by the Local Planning Authority. The document shall include details of design objectives; management responsibilities; maintenance schedule, including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies and details of any long term funding arrangements.

The development shall be implemented and thereafter maintained in line with the details and timescales in the approved document.

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with the approved Maintenance Plan and must be available for inspection upon a request by the Local Planning Authority.

Reason - To ensure proper planning, management and maintenance of the approved landscaped area and sustainable urban drainage features in the interests of visual amenity and 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.

- 5 The development shall be carried out in accordance with the site levels details shown on Finished Floor Levels drawing no. 12/34/18 Revision A,; Proposed Site Wide Levels Plan drawing no. C7114/SK3; Longitudinal Road Section Sheet 1 of 2 drawing no. C7114/SK5; Longitudinal Road Sections sheet 2 of 2 drawing no. C7114/SK6; and Detention Basin Details drawing no. C7114/SK10, as approved under planning reference 19/00617/DISCON.

Reason - To protect the impact on neighbours and in the interests of visual amenity.

- 6 The principal means of vehicular access shall be from Tokely Road. The existing vehicular access to Bromley Road shall be provided as a shared pedestrian and cycleway together with safe and suitable pedestrian facilities at the junction with Bromley Road with measures to prevent vehicular access; as agreed in writing by the Local Planning Authority.

Reason - In the interests of highway safety.

- 7 Internal road junctions shall be provided with minimum vehicular visibility splays of 33 metres by 2.4 metres by 33 metres. Each domestic vehicular access shall be provided at a maximum width of 3.7 metres together with 1.5 metres by 1.5 metres pedestrian visibility splay.

Reason - In the interests of highway safety.

- 8 The development shall be constructed in full accordance with the bicycle storage details shown on Drawing No. 001B, (GR1) 100, (GR2) 100 and 850 approved under planning reference 19/00627/DISCON. The cycle storage 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 encourage sustainable forms of transport.

- 9 All boundary walls and fences which face onto public spaces/highways or private drives shall be constructed in accordance with the details shown on drawing no. 1138.02 Rev.B (Hard Works). The boundary walls and fences as approved shall be erected prior to the buildings to which they relate being first occupied and shall thereafter be retained in their approved form.

Reason - To ensure a satisfactory development in terms of appearance and functionality, in the interests of amenity.

- 10 The development shall be carried out in accordance with the detailed surface water scheme as per the Proposed Drainage Strategy Plan drawing no. C7114/SK4; Private Drainage Construction Details drawing no. C7114/SK8; and Detention Basin Details drawing no. C7114/SK10; and Drainage & SUDS Maintenance Report (prepared by Walker Associates Consulting and dated April 2019) as approved under planning reference 19/00617/DISCON.

Reason - To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to ensure the effective operation of SuDS features over the lifetime of the development and to provide mitigation of any environmental harm which may be caused to the local water environment.

- 11 The scheme to minimise the risk of offsite flooding during construction works shall be implemented in accordance with the details shown on the Proposed Drainage Strategy Plan drawing no. C7114/SK4 and 'Drainage & SUDS Maintenance Report' prepared by Walker Associates Consulting (April 2019) as approved under planning reference 19/00617/DISCON.

Reason - To ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

- 12 The foul water strategy shall be implemented in accordance with the details set out on the Proposed Drainage Strategy Plan drawing no. C7114/SK4; Adoptable Manhole Schedules drawing no. C7114/SK7; Standard Adoptable Sewerage Details drawing no. DS/SFA/001 Revision C; and 'Drainage & SUDS Maintenance Report' prepared by Walker Associates Consulting (April 2019), as approved under planning reference 19/00617/DISCON.

Reason - To prevent environmental and amenity problems arising from flooding.

- 13 Other than for external lighting within the curtilage of a dwellinghouse within any permitted phase of development and any lighting within the public highways, details of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The external lighting strategy shall consider how the use of such lighting will avoid, or minimise, harm caused by light pollution and the development shall be carried out in accordance with the approved scheme.

Reason - To ensure that new external lighting of the development is not harmful to biodiversity or local amenity.

- 14 The development shall be constructed in full accordance with the External Material Tracker dated April 2019 as approved under planning reference 19/00626/DISCON.

Reason - To ensure a satisfactory development in relation to external appearance.

- 15 The garages and car parking spaces hereby permitted shall be kept available for the parking of motor vehicles at all times. The garage/car spaces shall be used for no other purpose and permanently retained, unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure sufficient parking is provided in the interests of highway safety.

- 16 The development shall be constructed in full accordance with the details shown within the 'Environmental Construction Management Plan' produced by Hill (Ref. PDN05-G3-12.02.2018), as approved under planning reference 19/00613/DISCON.

Reason - To ensure that development is carried out in a controlled manner while minimising impacts on the surrounding residential properties and also in the interests of highway safety.

- 17 No dwelling hereby permitted shall be occupied until the parking provision as shown on Drawing No. 1723 P-02 Rev. C for that dwelling is laid out and available for use.

Reason - To ensure adequate off-street parking is provided in the interests of highway safety.

- 18 Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A, B and C of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order

revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwellings hereby permitted shall be erected or carried out except in accordance with drawings showing the siting and design of such enlargement, improvement or other alteration which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - To protect the privacy and amenities of the occupiers of adjoining properties and to ensure adequate amenity space is retained.

- 19 The development shall be implemented in accordance with the letter and associated appendices from Geosphere Environmental Limited dated 30 April 2019 setting out proposed mitigation measures of the recreational impact of the development on protected Essex Coast Habitats (European) Sites, as approved under planning reference 19/00684/DISCON.

Reason - In order to safeguard protected wildlife species and their habitats in accordance with the NPPF and Habitats Regulations 2017.

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.

The applicant is reminded that this permission is linked to a planning obligation under Section 106 of the Town and Country Planning Act 1990.

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
910 The Crescent
Colchester
CO4 9QQ

Standard Informative 1: The Provisions of the Essex Act 1987, Section 13 (Access for the Fire Brigade) may apply to this Development and will be determined at Building Regulations Stage.

Standard Informative 2: You are reminded that the carrying out of building works requires approval under the Building Regulations in many cases as well as a grant of planning permission. If you are in doubt as to whether or not the work, the subject of this planning permission, requires such approval, then you are invited to contact the Building Control section at Tendring District Council.

Standard Informative 3: If the development includes the construction of a new building on or at the boundary of 2 properties, work to an existing party wall or party structure or involve excavation near to and below the foundation level of neighbouring buildings, you are advised that the provisions of the Party Wall Act 1996 may apply to this development. An explanatory booklet concerning the implications of this Act is available online or from the District Council.

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

