

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	12/09/2019
Planning Development Manager authorisation:	TF	12/09/2019
Admin checks / despatch completed	AW	12/9/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	SB	12/09/19

Application: 19/00716/OUT

Town / Parish: Frinton & Walton Town Council

Applicant: Mr J Lott

Address: Land adjacent Green End Garage Green End Lane

Development: Proposed development of one dwelling.

1. Town / Parish Council

Frinton and Walton Town
Council

Recommend the application for approval.

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 is located off a quiet rural lane and no through road. On Kirby Road near the junction with Green End Lane there are two existing bus stops. Located within in the lane are a number of existing dwellings. The proposal provides adequate parking and turning therefore:

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

1. Prior to the first occupation of the dwelling, the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 3.6 metres (4 low kerbs); shall be retained at that width for 6 metres.

Reason: To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety and in accordance with Policy DM1 and DM6.

2. Prior to occupation of the dwelling a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest 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. 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.

5. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and 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: 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:

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

The Highway 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.

3. Planning History

10/00030/LUEX	Use of the property, land and buildings, as a garage for the servicing, repair, external storage and parking of motor vehicles in connection with the business (Class B2)	12.03.2010
10/00664/LUEX	Use of land and buildings as shown on attached drawing and being:	29.10.2010

Building 1: Service bay (B2)
 Building 2: Valet bay (B1c)
 Building 3: Waste store (B8)
 Building 4: Storage of tractor
 Building 5: Secure store
 Building 6: Office (B1a)

Land area A: Forecourt arrivals and deliveries

Land area B: Customer collection

Land area C: Customer parking

Land area D: Parking overflow and long term vehicle storage

Land area E: Valet parking

Land area F: Turning area

11/00466/FUL	Demolition of existing buildings (service and valet bay, waste store and office) and construction of new combined workshop and service building (service bays, MOT bay, store, reception, office, kitchen and WC), new and reconfigured parking area and landscaping.	Approved	04.07.2011
14/00981/FUL	Construction of extension to existing combined vehicle workshop and service building.	Approved	05.09.2014

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

HG1 Housing Provision

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

EN1 Landscape Character

EN2 Local Green Gaps

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

COM6 Provision of Recreational Open Space for New Residential Development

TR1A Development Affecting Highways

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

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

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL6 Strategic Green Gaps

CP1 Sustainable Transport and Accessibility

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 site measures approximately 0.05 hectares and is a rectangular shaped plot with a road frontage of 15metres. The site incorporates part of the parking area for the neighbouring 'Green End Garage' which is located to the east of the site. The proposal will see the loss of four parking spaces. The main workshop is set back from the road frontage with a sales building closer to the highway. To the east and west of the workshop are vehicle display and parking areas. The application site is enclosed across the frontage by 1.2 metre high hedgerow.

Planning Appeals

To the west of the application site, planning reference 16/00793/FUL was refused planning permission for the erection of a detached dwelling fronting Green End Lane within part of the garden to Holland House'. The application was taken to planning appeal and it was allowed by the Planning Inspectorate in May 2016 under appeal reference APP/P1560/W/17/3166412.

Proposal

The application seeks outline planning permission for the construction of one dwelling with a garage and off street parking.

All matters (access, appearance, landscaping, layout and scale) are reserved for consideration as part of a future detailed application. The proposal therefore seeks to establish the principle of one dwelling on the site.

Assessment

The main considerations for this application are;

- o Principle of Development
- o Layout, Scale, Character and Impact
- o Residential Amenities
- o Highway Safety and Parking
- o Trees and Landscaping
- o Financial Contributions
- o Habitat Regulations' Assessment

Principle of Development

The application site lies outside of a Settlement Development Boundary as defined within the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The principle of development has been established through the planning appeal decision reference APP/P1560/W/17/3166412 dated 11th May 2017. The appeal refers to 'Holland House, Green End Lane, Great Holland' which was allowed permission for the erection of a detached dwelling fronting Green End Lane within part garden to Holland House'. The appeal site is located approximately 41 metres to the west of the application site. The Planning Inspector stated that 'as a new dwelling outside the village envelope the proposal would be contrary to the settlement policies of the development plan (Policy QL1 of the LP). An application should be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance the lack of a five year housing land supply is a significant material consideration that renders the settlement policies as out of date. Moreover, the settlement policies, including emerging Policy SPL2 of the TLP, should be afforded limited weight as they have likely contributed to the Council's inadequate housing land supply. As such, the location of the dwelling outside of the village envelope is an adverse impact of limited weight against the proposal'.

In terms of character, the Inspector stated that 'the proposal would not harm the character and appearance of the area'. 'However, the absence of harm is a neutral matter in the planning balance'.

The inspector concluded that 'the proposal would, in a modest way, support the local economy through construction jobs and circulation of funds. The proposal would also boost housing supply and support the vitality of the rural community. However, as only one dwelling is proposed these benefits are of a limited scale and are thus of limited weight. Nevertheless, when the adverse impacts are balanced against the benefits of the proposal the appeal scheme would not have adverse impacts that would significantly and demonstrably outweigh its benefits. As such, the proposal would be sustainable development for which the Framework carries a presumption in favour'.

At the time of the appeal decision, the Council was unable to demonstrate a 5 year housing supply; this position still remains valid at the time of writing this report.

Therefore, given the above, the accessibility of services and facilities and the effect of development on the character of the countryside indicate that the site would provide an appropriate location for housing. There would be some intrinsic conflict with Saved Policy QL1 but this would not manifest itself into any harm in terms of its overall objectives or result in social, economic or environmental harm. The principle of residential development is therefore considered to be acceptable as established by the appeal decision.

Layout and Appearance

Paragraphs 127 and 170 of the NPPF state that developments should add to the overall quality of the area, be visually attractive as a result of good architecture and be sympathetic to local character, including the surrounding built environment.

Saved Policies QL9, QL10 and QL11 of the adopted Tendring District Local Plan (2007) seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward within Policy SPL3 of the emerging Local Plan.

The application is in outline form with all matters reserved and therefore detailed plans do not form part of the determination of this application. As such no elevational drawings have been submitted. Design within any future application should look to be in-keeping and not detrimental to the character of the surrounding area.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of one bedroom should be a minimum of 50 square metres, for a dwelling of two bedrooms should be a minimum of 75 square metres and for a dwelling of three bedrooms or more should be a minimum of 100 square metres. The information that has been supplied does not indicate the number of bedrooms; although there is sufficient space within the site to ensure there will be enough private amenity space for the proposed dwelling.

The application site adjoins a commercial building to the west 'Green End Garage' and a dwelling to the east 'Homelea' both fronting Green End Lane. The proposed development will therefore appear as an in fill to the street scene.

It is therefore considered that a detailed design, layout and landscaping scheme could be provided at reserved matters stage which would preserve the character of the surrounding area and be acceptable in terms of visual impact.

Residential Amenities

The NPPF, in paragraph 127 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Appearance and layout are reserved for later consideration. It is considered that one dwelling could be accommodated on the site with no material loss of amenity in terms of loss of light, outlook or privacy. Therefore, it is considered that there is sufficient spacing between the neighbouring dwelling 'Homelea' and the commercial business 'Green End Garage' could be achieved to result in a development that would not harm the amenities of neighbours.

Highway Safety/Parking

Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the

proposal will generate. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The proposal is located off a quiet rural lane and no through road. On Kirby Road near the junction with Green End Lane there are two existing bus stops. Located within in the lane are a number of existing dwellings. The proposal provides adequate parking and turning therefore Essex Highway Authority does not object to the proposal subject to conditions. The conditions relate to vehicular access to be constructed at right angles, a vehicular turning facility, no discharge of surface water onto the highway, no unbound materials and any boundary planting to be a minimum of 1 metre from the highway and visibility splays. Access is a reserved matter so the detail will be considered in a future reserved matters application and it is not necessary to impose conditions at this stage.

The proposed dwelling will result in the loss of four parking spaces however there is scope on site for the spaces to be relocated to the north west of the application site.

The Council's Adopted Parking Standards require that dwellings with 2 bedrooms or more require a minimum of 2 parking space is provided per unit. The preferred bay size for cars is 5.5 metres by 2.9 metres. The minimum bay size is 5 metres by 2.5 metres and should only be used in exceptional circumstances. Garages should measure 7 metres by 3 metres in line with Essex Parking Standards.

Trees and Landscaping

Landscaping will be secured at the reserved matters stage. There is scope for soft landscaping to be implemented to screen and enhance the appearance of the completed development. The hedges along the existing boundary shall be retained and secured by condition when a detailed application is submitted.

Local Green Gap

Policy EN2 of the Tendring District Local Plan 2007 states that during the plan period, land within Local Green Gaps, as defined on the Proposals Map, will be kept open and essentially free of development. This is to prevent the coalescence of settlements, and to protect their rural settings. Minor development proposals may be permitted if they do not harm, individually or collectively, to the purposes of a Local Green Gap or to its open character. These sentiments are carried forward in Policy PPL6 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Although the application proposes a dwelling in the Local Green Gap, the proposal is considered to be a minor development. Within the appeal decision, the Planning Inspectorate stated that 'the proposal would not harm the character and appearance of the area'. It is therefore considered that the proposed dwelling would not cause any significant harm upon the Local Green Gap due to the proposal representing a logical infill of linear form.

Financial Contributions - Open Space

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 14.12 hectares of equipped play in Frinton, Walton & Kirby and Great Holland. There is only one play area in Great Holland located on the corner of Pork Lane and Main Road. Due to the size of the development, it is unlikely that this development will impact existing facilities. Therefore no contribution is being requested on this occasion.

Habitat Regulations Assessment

Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Areas of Conservation). Within Zones of Influences (which the site falls within) Natural England are

requesting financial contributions to mitigate against the in-combination recreational impact from new dwellings.

A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be the RAMS level contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites. The contribution is secured by unilateral undertaking.

There is therefore certainty that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Other Considerations

Frinton and Walton Town Council have recommended this application for approval.

Great Holland Residents Association has commented on this application and have stated the following;

- o Erode the current settlement boundary of the Village.
- o The site is an infill site between a commercial premises and existing residential property.
- o The application will do little to help meet the current housing needs
- o Request for the application to be considered on the basis that would halt the current trend of granting planning permission for residential properties outside the current settlement boundary of our village.

The concerns raised above have been addressed within the report.

6. **Recommendation**

Approval - Outline

7. **Conditions / Reasons for Refusal**

- 1 The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

- 3 No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the access, appearance, landscaping, layout and scale have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - The application as submitted does not provide sufficient particulars for consideration of these details.

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Site Plan Scanned 8th may 2019 and Planning Statement dated May 2019.

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

- 5 Prior to the first occupation of the dwelling, the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 3.6 metres (4 low kerbs), shall be retained at that width for 6 metres.

Reason: To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety

- 6 Prior to occupation of the dwelling a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety

- 7 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

- 8 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

- 9 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety

8. Informatives

Planning Application – 11/00466/FUL

The application proposes the removal of 4 parking spaces and therefore you will need to vary condition 5 which refers to the retention of parking spaces within planning application 11/00466/FUL to be able to implement this permission.

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.

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:

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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