

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	09/09/19
Planning Development Manager authorisation:	AN	23/9/19
Admin checks / despatch completed	SB	23/09/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:		

Application: 19/00937/FUL **Town / Parish:** Mistley Parish Council

Applicant: Mr Cross - Futureway Homes Ltd.

Address: Land to The South of Pound Corner Harwich Road Mistley

Development: Removal of conditions 16 and 17 of approval 15/01787/FUL as bus stops no longer necessary or required.

1. Town / Parish Council

Mistley Parish Council At its Planning Committee Meeting on the 18th July 2019, Mistley Parish Council considered that the application should be Approved.

2. Consultation Responses

ECC Highways Dept It is noted that this application only concerns the removal of condition No16 and 17. The Highway Authority does not object to the proposals as submitted.

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:

3. Planning History

15/00518/ACV	Nominated and recorded on the List of Assets of Community Value held and maintained by Tendring District Council.		29.01.2018
15/01787/FUL	Proposed development of 25 two and three bedroom bungalows.	Approved	07.09.2017
18/00976/DISCON	Discharge of Conditions 5 (piling method statement), 9 (site levels), 20 (visibility splays), 24 (estate roads), 26 (drainage during construction), and 27 (surface water drainage) of 15/01787/FUL.	Approved	28.06.2019
18/01027/DISCON	Discharge of conditions 3 (material schedule), 18 (construction method	Approved	28.06.2019

statement), 19 (vehicle turning), and 30 (scheme of demolition).

19/00014/DISCON	Discharge of Condition 4 (Boundary Walls and Fences) and Condition 6 (Landscaping) of application 15/01787/FUL.	Approved	08.02.2019
19/00936/DISCON	Discharge of conditions 4 (boundary materials) and 6 (hard and soft landscaping) for approval 15/01787/FUL.	Approved	23.07.2019
19/01180/DISCON	Discharge of conditions 8 (landscaping) and 25 (surface water) for approval 15/01787/FUL.	Current	

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

COM19 Contaminated Land

COM20 Air Pollution/ Air Quality

COM21 Light Pollution

COM22 Noise Pollution

COM23 General Pollution

COM26 Contributions to Education Provision

EN1 Landscape Character

EN2 Local Green Gaps

EN6 Biodiversity

EN13 Sustainable Drainage Systems

EN23 Development Within the Proximity of a Listed Building

EN29 Archaeology

HG1 Housing Provision

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

QL1 Spatial Strategy

QL3 Minimising and Managing Flood Risk
QL9 Design of New Development
QL10 Designing New Development to Meet Functional Needs
QL11 Environmental Impacts and Compatibility of Uses
TR1A Development Affecting Highways
TR2 Travel Plans
TR3A Provision for Walking
TR4 Safeguarding and Improving Public Rights of Way
TR5 Provision for Cycling
TR6 Provision for Public Transport Use
TR7 Vehicle Parking at New Development
TR10A General Aviation

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

HP3 Green Infrastructure
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
PPL1 Development and Flood Risk
PPL3 The Rural Landscape
PPL4 Biodiversity and Geodiversity
PPL5 Water Conservation, Drainage and Sewerage
CP1 Sustainable Transport and Accessibility
SPL1 Managing Growth
SPL2 Settlement Development Boundaries
SPL3 Sustainable Design

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, which in total has an area of 4 hectares, is land to the south of Pound Corner within the parish of Mistley. The east of the site abuts properties in Middlefield Road and Rigby Avenue. Middlefield Road itself reaching the boundary of this site appears to have been originally

arranged to allow an extension into this site. Middlefield Road and Rigby Avenue is characterised by a mixture of houses and bungalows mostly semi-detached with brick walls under clay tile roofs. Harwich Road to the north serves as a main bus route and is characterised by residential dwellings on either side. To the south of the site is open countryside and to the west the Village Hall and the former 'Secret Bunker' site.

Description of Proposal

This application seeks planning permission for the removal of conditions 16 and 17 of previous planning permission 15/01787/FUL, which allowed development of 25 dwellings. The wording of the two conditions imposed on that decision are as follows:

Condition 16:

"Prior to the first occupation of any of the proposed dwellings the applicants shall provide a new bus stop (eastbound) in the vicinity of the junction with Harwich Road, the precise location to be agreed with the Highway Authority, including the provision of level entry kerbing, new post and flag, timetables, any adjustments in levels, surfacing and any accommodation works to the footway and carriageway channel being provided entirely at the applicant/developer's expense to the specifications of the Highway Authority."

Condition 17:

"Prior to the first occupation of any of the proposed dwellings the applicants shall provide a new bus stop (westbound) in the vicinity of the junction with Harwich Road, the precise location to be agreed with the Highway Authority, including the provision of level entry kerbing, new post and flag, timetables, any adjustments in levels, surfacing and any accommodation works to the footway and carriageway channel being provided entirely at the applicant/ Developer's expense to the specifications of the Highway Authority."

Assessment

As part of the original planning permission 15/01787/FUL, Essex Highways Authority requested that the two conditions were imposed to ensure two new bus stops were provided along the eastern and western sides of Harwich Road. However, since the determination of this application, the applicant has confirmed that Essex Highways Authority have advised that these bus stops are no longer necessary or required. As part of the determination of this application Essex Highways Authority were consulted and have raised no concerns.

Further, there will be no visual impacts or harm to existing amenities as a result of the proposal.

Other Considerations

Mistley Parish Council have recommended approval.

There have been no other letters of representation received.

6. Recommendation

Approval.

7. Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans of previous planning permission 15/01787/FUL: 710/20 B, 710/22, 710/19 B, 710/18, 710/17 Rev A, 710/16, 710/14, 710/12, 710/21 A, 710/11 A, 710/15 B, 710/13 A and 710/10 E.

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

- 2 Details of the manufacturer and types and colours of the external facing and roofing materials used in construction shall be in full accordance with the details as approved within 18/01027/DISCON.

Reason - This is a publicly visible building where materials are a visually important design element.

- 3 Details of all boundary walls and fences which face onto public spaces/highways or private shall be in full accordance with the details approved within 19/00936/DISCON. The boundary walls and fences approved shall be retained in their approved form for perpetuity.

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

- 4 The method statement in respect of piling containing a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents shall be in full accordance with the details approved within 18/00976/DISCON.

Reason - In the interests of residential amenity.

- 5 The scheme of hard and soft landscaping works for the site shall be in full accordance with the details approved within 19/00936/DISCON.

Reason - In order to ensure the satisfactory development of the site in terms of visual impact as the landscaping scheme is considered to play an important part in integrating the development with the surrounding development and to ensure the existing mature trees and identified hedgerows are safeguarded during construction and retained in the interests of visual amenity.

- 6 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 and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details

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

- 7 A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved, in writing, by the Local Planning Authority prior to the first occupation of the development. The landscape management plan shall be carried out as approved in accordance with the details and timescales in the plan.

Reason - To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

- 8 Details of existing and proposed levels of the site, finished floor levels and all areas of cut or fill shall be in full accordance with the details approved within 18/00976/DISCON.

Reason - In the interests of visual and residential amenity.

- 9 The carriageway(s) of the proposed estate road(s) shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road(s). Prior to occupation the carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling has a

properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands' to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surfacing within twelve months (or three months in the case of a mews) from the occupation of such dwelling.

Reason - To ensure roads/footways are constructed to an appropriate standard in the interests of highway safety.

- 10 All off street car parking shall be in precise accord with the details contained within the current Parking Standards.

Reason - To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 11 Prior to occupation of the proposed development, the developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport approved in liaison with 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.

- 12 Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Class B or 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 windows shall be inserted in the roof slope of the dwellings except in accordance with drawings which shall previously have been submitted to and approved, in writing, by the Local Planning Authority by way of a planning application.

Reason - In the interests of neighbouring residential amenity.

- 13 Prior to the first use of the new road and footway connection to Harwich Road, Mistley, visibility splays of 17m by 2.4m by 17m as measured along, from and along the nearside edge of the carriageway or footway, shall be provided on both sides of the centre line of the FP N07 (Mistley) and shall be maintained in perpetuity free from obstruction clear to ground.

Reason - To ensure adequate intervisibility between drivers of vehicles using the proposed highway and those on the Public Right of Way, in the interests of highway safety. (Required at both crossing points of the new carriageway and footway).

- 14 Prior to the occupation of the proposed development, the proposed new road and footway connection to Harwich Road, Mistley shall be provided as shown detailed in Drawing Numbered 710/10/Revision E of planning permission 15/01787/FUL.

Reason - To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

- 15 The development shall be in full accordance with the Construction Method Statement approved within 18/01027/DISCON.

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 16 The vehicular turning facility shall be in full accordance with the details as approved within 18/01027/DISCON.

Reason - To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

- 17 The details of the clear ground level visibility splays for each internal estate road junction shall be in full accordance with the details as approved within 18/00976/DISCON. Such visibility splays shall be provided before the road is first used by vehicular traffic and shall be retained free from obstruction clear to ground.

Reason - To ensure a reasonable degree of intervisibility between drivers of vehicles at and approaching the road junction, in the interests of highway safety.

- 18 Prior to first occupation of the proposed development, each individual proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7m and each shared vehicular access shall be constructed at right angles to the highway boundary and to a width of 5.5m 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.

- 19 Prior to the proposed accesses being brought into use, a 1.5m. x 1.5m. pedestrian visibility splay, relative to the highway boundary, shall be provided on both sides of that access and shall be maintained in perpetuity free from obstruction clear to ground. These splays must not form part of the vehicular surface of the access.

Reason - To ensure adequate intervisibility between drivers of vehicles using the proposed access and pedestrians in the adjoining highway, in the interests of highway safety.

- 20 No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary/throughout.

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

- 21 Details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be in full accordance with the details as approved within 18/00976/DISCON.

Reason - To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

- 22 No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. The applicant or any successor in title shall maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason - To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

- 23 Details of a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works shall be in full accordance of details approved within 18/00976/DISCON.

Reason - The National Planning Policy Framework paragraph 103 states that Local Planning Authorities should ensure flood risk is not increased elsewhere by development.

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

- 24 Details of a detailed surface water drainage scheme for the site, based on the approved drainage strategy in line with sustainable drainage principles, shall be in full accordance with the details as approved within 18/00976/DISCON. This scheme shall subsequently be implemented prior to occupation.

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. To provide mitigation of any environmental harm which may be caused to the local water environment.

- 25 The development shall be carried out in accordance with the recommendations contained in the submitted "Bat Activity and Reptile Survey" prepared by Geosphere Environmental Ltd within planning permission 15/01787/FUL. The enhancements shall be implemented in accordance with the recommendations in the survey before occupation of the hereby approved development.

Reason - To preserve and enhance the biodiversity of the site.

- 26 The working hours in connection with the use/building(s) hereby permitted, shall only be between 07:00hrs and 19:00hrs Monday to Saturday (finishing at 13:00hrs on a Saturday); and no work shall be carried out on Sundays, or Public Holidays, or outside the specified hours, unless otherwise agreed in writing by the Local Planning Authority.

Reason - In the interest of residential amenity.

- 27 Details of a scheme of demolition of existing buildings on site shall be in full accordance with the details approved within 18/01027/DISCON.

Reason - In the interests of residential amenity and to control pollution.

- 28 The development approved under planning permission 15/01787/FUL (including any site stripping or preparation and/or demolition), shall only be carried out outside of the wild bird nesting season - from 31 March - 1 September (dates as advised by ecology consultation), unless the Local Planning Authority first gives written approval to any variation subsequent to the submission of satisfactory evidence that the development of the site in the specified date range will not have an adverse impact on nesting birds.

Reason - In the interest of wildlife protection.

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.

Highways Informative:

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.