

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	10/09/19
Planning Development Manager authorisation:		
Admin checks / despatch completed	AN	23/9/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	24/9/19

Application: 19/00676/FUL **Town / Parish:** Little Bromley Parish Council

Applicant: Mr Thierry and Mrs Serena Filloux-Bennett

Address: Land adjacent Brook House Shop Road Little Bromley

Development: Erection of a two storey house with attached garage.

1. Town / Parish Council

Little Bromley Parish
Council

Little Bromley Parish Council has no objection to this planning application

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 off an existing shared private access and retains adequate room and provision for off street parking and turning, for the proposed dwelling 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 occupation of the development 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.

2. Prior to the occupation of the proposed dwelling, the existing private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of carriageway.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

3. 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.

4. 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.

5. At no point shall gates be provided at the vehicular access. The access shall remain open and free for use in perpetuity.

Reason: To give vehicles using the access free and unhindered access to and from the highway in the interest of highway safety and in accordance with policy DM1.

6. All double garages should have a minimum internal measurement of 7m x 5.5m.

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.

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

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

8. 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 free of charge.

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

9. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

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

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

Informative 1: 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,

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.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

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

3. Planning History

02/00778/OUT	Erection of detached dwelling.	Refused	31.05.2002
18/00113/OUT	Erection of one residential dwelling.	Approved	30.05.2018

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

EN23 Development Within the Proximity of a Listed Building

HG1 Housing Provision

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)

CP1 Sustainable Transport and Accessibility

LP1 Housing Supply

LP4 Housing Layout

PPL3 The Rural Landscape

PPL9 Listed Buildings

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 relates to the land to the south-east of Brook House, Shop Road, Little Bromley. The site comprises a broadly square plot of land approximately 0.11ha in size. The main body of the application site is set to grass. There are several trees situated on the perimeter of the site and isolated shrubs within the site. Other than the access, the application site does not extend to the highway edge with a small strip of grass enclosed by a post and rail fence beyond. To the north of the site is a protected oak tree. The site is located at the end of a row of existing dwellings with open fields to its southern and eastern boundaries. There are dwellings on the opposite side of Shop Road extending beyond the application site in both directions. To the north-west, the proposed development site is bounded by Brook House and its associated garden. Approximately 2m to the north-west of the application area is a pond, located in the rear garden of Brook House.

The site falls outside of a recognised Settlement Development Boundary within the Adopted Tendring Local Plan 2007, but does fall within the Settlement Development Boundary for Little Bromley within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Description of Proposal

This application seeks full planning permission for the erection of one detached residential dwelling, that will be two storeys in height, served by two bedrooms and will have a garage attached to the side elevation.

Site History

Under planning reference 18/00113/OUT, outline planning permission with all matters reserved was granted for one residential dwelling on this site.

Assessment

1. Principle of development

The site is situated within the defined settlement limits of Little Bromley, as defined within the Emerging Publication Draft (2017). Furthermore, it is acknowledged that one residential dwelling on this site was granted outline planning approval under planning permission 18/00113/OUT. Therefore the principle of residential development in this location is acceptable subject to the detailed considerations as set out below.

2. Layout, Design and Appearance

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 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 in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The proposed dwelling is to be detached, two storeys and located to the east of Brookhouse along Shop Road, accessed via an existing access point to the north-west corner of the site. Due to its siting on the edge of the Little Bromley settlement, there is potential for the site to appear prominent, particularly from views from the east. However, the site is well screened to its northern and eastern boundaries by existing mature vegetation, thereby reducing the visual impact.

The dwelling is to be sited broadly in line with Brookhouse to the west, although there is a 1 metre set back. The building line to this southern section of Shop Road is relatively strong and it is considered the siting of this proposed dwelling would add to the existing pattern. There are therefore no principle concerns regarding the dwellings siting.

It is noted there is no set building type along Shop Road, with a mixture of traditional and semi-rural designed properties, which also vary between being detached and semi-detached. Therefore the principle of a two storey detached dwelling is acceptable. Initially there were a number of concerns that the garage was too large, not appearing as a subservient addition to the main dwelling, and the east elevation was too bland. It was further suggested that a brick plinth was included to soften the overall appearance of the dwelling.

Following this, amended plans were submitted that overcome the concerns raised by Officers. It is now considered that the dwelling includes a number of features to soften its appearance, for example a front canopy, brick plinth and single storey side element. Further, the garage has been reduced both in terms of height and depth, while the eastern elevation has been improved with the addition of the side extension. Given all of the above the design of the proposal is now considered to be acceptable in this location.

Policy HG9 of the Saved Tendring Local Plan 2007 states that the private amenity space for a dwelling with three bedrooms or more should be a minimum of 100sqm. The plans demonstrate that this level of private amenity space can comfortably be accommodated.

3. Impact to Neighbouring Amenities

Policy QL11 of the Saved Plan 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 (June 2017).

The only adjacent neighbouring property potentially impacted by the proposed dwelling is 'Brookhouse', located to the north-west of the application site. Given the dwellings proposed siting, affording approximately 25m separation distance, there will be no significant loss of light and the dwelling will not appear imposing. In terms of overlooking, it is again acknowledged there is a good separation distance, whilst there are no first floor side elevation windows that could directly overlook the neighbouring garden area. Further, given the dwelling is slightly set back views from first floor rear elevation windows will be to the rear of the neighbouring garden, an area less likely to be regularly occupied.

However that notwithstanding there were initially concerns that the proposed balcony area would result in direct overlooking to the neighbouring garden area. Accordingly to overcome this the applicant submitted amended plans to incorporate a partition, therefore overcoming these highlighted concerns. Balconies can also result in some potential noise disturbance, however considering there is a significant separation distance and the depth of the balcony is not of a sufficient size to incorporate large parties, the noise related harm associated with it, on balance, is not significant enough to warrant a reason for refusal.

4. Highway Safety

Essex Highways Authority have raised no objections to the proposal subject to conditions relating to a vehicular turning facility, the width of the private drive, the use of no unbound materials, no discharge of surface water, and that no gates shall be used. Further conditions relating to the submission of a Residential Travel Information Pack and cycle parking provision were requested,

however given the scheme is not a major development and there is sufficient space within the site to accommodate bicycles, it would not be reasonable to include these on this occasion.

Adopted Car Parking Standards state a dwelling with two or more bedrooms should have sufficient space to accommodate two parking spaces measuring a minimum 5.5m x 2.9m or, if being used as one of the two parking spaces, a garage with internal measurements of 7m x 3m. The submitted plans show the proposed garage accords with the above requirements, while there is significant space to the front/side of the dwelling to accommodate the second required parking space.

5. Tree and Landscapes

The main body of the application site is set to grass. There are several trees situated on the perimeter of the land and isolated shrubs within the main body of the land. On the northern boundary on the road side of the stream that runs from east to west there is a mature Holm Oak (*Quercus ilex*). The tree is a large and impressive feature in its setting and makes a significant and positive contribution to the appearance of the area.

The tree is afforded formal legal protection by Tendring District Council Tree Preservation Order Ref 92/40/TPO - Opposite Newhouse Farm, Shop Road, Little Bromley.

In order to show the extent of the constraint that the Holm Oak is on the development potential of the land the applicant has provided a tree survey and report. This information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction.

The report shows that the development of the land can take place without causing harm to the tree and provides details of the action that will need to be taken to physically protect the tree for the duration of the construction phase of any development for which planning permission may be granted.

Conditions for soft landscaping details will be included within this decision.

6. Biodiversity

The characteristics of the site have been considered against the criteria as set out by Natural England in relation to habitat and biodiversity potential and a Phase 1 Habitat Survey for the site was considered necessary. A Preliminary Ecological Appraisal has therefore been supplied.

The survey identifies that no potential tree roosting habitat would be lost or affected by the proposal. Given the existing land use (garden) and lack of habitat/connectivity, it was considered unlikely that the proposal would have an adverse impact upon reptile species. Furthermore, the survey identified that the proposal would not result in the loss of any suitable habitat, nor have any potential impact upon hazel dormouse, otter or water vole. No active or inactive badger setts were found, with no evidence of badger activity identified in the areas affected by development proposals. In respect of great crested newt, the proximity of the pond/ditch to the proposed development area in addition to potential terrestrial habitat on site meant potential for disturbance of habitat should the species be present. Further surveys comprising eDNA testing were advised and carried out.

Appropriate recommendations in respect of due diligence relating to nesting birds and ecological enhancements have been made at 4.2 Recommendations and should be followed. The necessary conditions will be added to satisfy the recommendations and enhancements sections of the report including the timing of clearance to minimise any disturbance.

The eDNA Testing for Great Crested Newts Report concluded that whilst the water looks clear, and the pond supports varied plant life, the water quality may in fact be poor as a result of nitrates and neonicotinoids, which whilst not fully ruling out the presence of GCN species, may make presence less likely rather than more likely. Therefore, the findings within the report do not raise any significant concerns as the pond is reasonably likely to be unsuitable for GCN. The development does not result in the loss of the pond and disturbance will be minimal.

7. Heritage Impact

Policy EN23 of the Adopted Local Plan states that development that would adversely affect the setting of a Listed Building, including group value and long distance views, will not be permitted. The sentiments of this policy are carried forward within Policy PPL9 of the Emerging Local Plan.

To the north-west of the site is 'Newhouse Farm', which is a Grade II Listed Building. Accordingly a Heritage Statement has been submitted to demonstrate that the proposed development will either preserve or enhance the setting of the listed building.

It is accepted that there is an approximate separation distance of 60m, whilst both the application site and that of Newhouse Farm are heavily protected by mature vegetation along the boundaries fronting Shop Road. Given the above, views of the listed building will remain unaltered and therefore the proposed dwelling is considered to preserve the setting of the listed building.

8. 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 -0.69 hectares of equipped play in the Little Bromley area. However, it is felt that there will be no significant impact on the current open space and play facilities, and therefore no contribution is being requested on this occasion.

9. Habitats Regulation 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 Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.

Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be the RAMS level contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites. The contribution is secured by unilateral undertaking. There is therefore certainty that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Other Considerations

Little Bromley Parish Council has raised no objections to the application.

There has been one letter of objection received, with the following concerns:

1. Harm to protected tree; and
2. Harm to setting of Grade II Listed Building.

In answer to this, both of these issues have been addressed within the main body of the report above.

6. Recommendation

Approval.

7. Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans, the documents 'Plan showing Highways Visibility Splays', 'Block Plan showing Proposed Layout', 'Plan showing proposed development in relation to the RPA of protected Holm Oak tree', 'Proposed floor plans' dated 21 August 2019, 'Proposed Elevations (1)' dated 21 August 2019, 'Proposed Elevations (2)' dated 21 August 2019, 'Tree Protection Plan', 'Arboricultural Impact Assessment', 'Preliminary Ecological Appraisal', 'eDNA testing for Great Crested Newts', 'Design and Access Statement and Heritage Statement', 'Ecological management scheme and mitigation plan', and the untitled Site Location Plan and 3D photographs.

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

- 3 Prior to occupation of the development a vehicular turning facility, of a design to be previously 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.

- 4 Prior to the occupation of the proposed dwelling, the existing private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of carriageway.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

- 5 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.

- 6 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.

- 7 At no point shall gates be provided at the vehicular access. The access shall remain open and free for use in perpetuity.

Reason: To give vehicles using the access free and unhindered access to and from the highway in the interest of highway safety.

- 8 Prior to the commencement of any above ground works, a scheme of hard and soft landscaping works for the site shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their

protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction.

Reason - To enhance the visual impact of the proposed works.

- 9 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 -To enhance the visual impact of the proposed works.

- 10 The development shall be carried out in accordance with the Preliminary Ecological Appraisal Section 4.2 Recommendations and Further Action.

Reason - In the interests of biodiversity.

- 11 Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no provision of fences, walls or other enclosures, shall be erected on the south-east (side) or south-western (rear) boundaries of the site except in accordance with details that shall have previously been approved in writing by the Local Planning Authority.

Reason - In the interests of visual amenity and landscape impact.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, 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.