

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	SB	25/09/2019
Planning Development Manager authorisation:	AN	26/09/2019
Admin checks / despatch completed	AP	26/9/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	[Signature]	26/09/19

Application: 19/01017/FUL **Town / Parish:** Brightlingsea Town Council

Applicant: Mr Jonathan Tither

Address: 117 Church Road Brightlingsea Colchester

Development: Move existing fence 2.5m from pavement.

1. Town / Parish Council

Mrs Brightlingsea Town
Council

Brightlingsea Town Council cannot support the application insofar as the fence impact in terms of visual amenity and breaks the covenant. Additionally it would set a precedent if allowed.

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 to move the fence back would assist in the visibility splay for the existing vehicle access therefore:

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

1. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and retained free of obstruction above 600mm not to restrict 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.

2. 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 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:

On the completion of the works, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 2:

Any 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,
653 The Crescent,
Colchester.
CO4 9YQ.

3. Planning History

19/01017/FUL	Move existing fence 2.5m from pavement.	Current
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4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL9 Design of New Development

QL10. Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

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

SPL3 Sustainable Design

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.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site is located to the south-west of Church Road, inside the development boundary of Brightlingsea. The site serves a detached dwelling, constructed of brick and hardie plank with a tiled roof and an attached garage to the east side of the dwelling. The front of the site is mainly gravelled for parking. The host dwelling is on a corner plot, with Manor House Way to the west of the site. There is a grassed area between on the boundary which leads to the public footpath with a current, unlawful, fence in situ on the western boundary.

Proposal

The application proposes to move the existing unauthorised side fence and to place it 2.5m from the public footpath, with the fence at an angle to the northern side. The proposal also proposes that there will be a laurel hedge planted to screen the said fence.

Assessment

The main consideration of this application is the visual impact of the fence.

Policy Considerations

The adopted Tendring District Local Plan (2007) Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and protects or enhances local character, and the development will not have a materially damaging impact on the privacy, daylight and other amenities of occupiers of nearby property. Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) carries forward the sentiments of these saved policies.

Design and Visual Amenity

The close boarded fencing to be used is considered to be out of character with the area and causes an adverse visual impact to the street scene of both Church Road and Manor House Way. However, due to the proposed soft planting and the angled fence line to the North this significantly lowers the impact to both visual amenity and the street scene.

The proposed development is therefore considered to result in no material harm to both visual amenity and the character of the surrounding area that would justify refusing planning permission..

Impact on Neighbours

Due to its siting the proposal would not result in a significant impact to neighbouring amenities.

Highway Safety

Essex County Council Highways have been consulted and have raised no objections to the proposal subject to a condition ensuring that the proposed planting is set back at least 1m from the highway and does not restrict any visibility splay.

As a result of its set back nature from the highway and with no objections from Essex County Council Highways it is considered that the erection of a new fence would not result in a harmful impact to highway safety.

Other Considerations

Brightlingsea Town Council have objected to the planning application on the following grounds that the fence would impact in terms of visual amenity and that it would set a precedent if allowed.

The issues raised have been addressed by changing the proposed fence line to the north to an angle and that the entire fence will be set back and screened by a laurel hedge. This will reduce the prominence of the fence in the street scene.

There has also been one letter of objection received, with the following point, that the fence spoils the outlook as you enter the 'open plan' estate.

As mentioned above and in the report the impact has been addressed by changing the proposed fence line to the north to an angle and that the fence will be screened over time by a laurel hedge.

Conclusion

It is considered that the proposed development is consistent with the National and Local Plan Policies identified above, and in the absence of any material harm resulting from the development, the application is recommended for approval.

6. Recommendation

Approval - Full

7. Conditions / Reasons for Refusal

- 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 plan: amended plan illustrating existing and proposed fence layout scaled 1:200 and amended plan illustrating existing and proposed fence layout scaled 1:100 received 12th September 2019.

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

- 3 No above ground works shall take place until full details (species, spacing and height at planting) of hedgerow planting between the approved fence and the footpath have been submitted to and approved, in writing, by the Local Planning Authority.

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

- 4 The hedge as approved under condition 3 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 interest of visual amenity and the character of the area.

- 5 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and retained free of obstruction above 600mm not to restrict 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

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.

Highways

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.

On the completion of the works, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

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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