

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	SB	25/10/2019
Planning Development Manager authorisation:	TF	28/10/2019
Admin checks / despatch completed	CC	28/10/2019
Technician Final Checks/ Scanned / LC Notified / UU Emails:	AP	28/10/19

Application: 19/01057/FUL **Town / Parish:** Clacton Non Parished

Applicant: Mr Mitchell Ilbury

Address: 1 Merstham Drive Clacton On Sea Essex

Development: Change existing brick wall to 1.8m fence and move 1m in from the boundary line.

1. Town / Parish Council

N/A

2. Consultation Responses

ECC Highways Dept From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to a number of planning conditions and informatives.

3. Planning History

91/00528/FUL	Proposed conservatory	Approved	02.07.1991
93/00184/FUL	Proposed perimeter fence of height - one foot six inches	Approved	16.04.1993
95/00885/FUL	Proposed repositioning of 1.8m brick wall in order to increase enclosed garden amenity area to rear of property	Approved	01.09.1995
19/01057/FUL	Change existing brick wall to 1.8m fence and move 1m in from the boundary line.	Current	

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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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 west of Merstham Drive, inside the development boundary of Clacton on Sea. The site serves a semi-detached dwelling, constructed of brick with a tiled roof. The front of the site is laid to lawn with a small 1m brick wall. The host dwelling is on a corner plot, with Constable Avenue to the south of the site. There is a grassed area between on the boundary which leads to the public footpath with a current brick wall in situ on the western boundary.

Proposal

The application proposes to remove the existing side boundary wall and to place a 1.8m fence 1m from the public footpath. 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.

Background

Originally the application proposed for the fence line to be directly on the boundary to the public footpath. However, this would have appeared too prominent within the street scene. It was then discussed and agreed at a meeting that the fence would be set back 1m from the highway with a laurel hedge to screen the fence. This has now addressed the initial concerns.

Design and Visual Amenity

The fencing to be used is considered to be out of character with the area and causes visual impact to the street scene of both Merstham Drive and Constable Avenue. However, due to the proposed soft planting this significantly lowers the impact to both visual and the street scene.

The proposed development is therefore considered to be acceptable in design terms.

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 number of conditions relating to pedestrian visibility splays and that any gates should be inward opening and set back 0.5m. Whilst the condition for gates is agreed, in this instance the need for 1.5m x 1.5m pedestrian visibility splays is considered to be excessive, and that the proposed 1m set-back would be acceptable in this instance. Accordingly, it is not proposed that this condition be imposed.

Tree and Landscape Impact

The site does not contain any trees or significant vegetation.

The information provided in relation to soft landscaping is sufficient to secure a satisfactory level of new planting that will enhance and partially screen the new boundary fence.

Other Considerations

No letters of representation were received.

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

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 amended layout plan.

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

- 3 The development shall be carried out in accordance with the details shown on the submitted landscape plan. 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 ensure the effective implementation of the approved landscaping scheme, in the interests of visual amenity.

- 4 Any gates provided shall be inward opening only and shall be set back a maximum of 0.5 metres from the back edge of the footway together with the fence line.

Reason - In the interest of highway safety in accordance with policy DM1.

8. Informatives

Postive 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.

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.

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.

Proposed construction works close to the back of the footway, which is a public highway, must be carried out subject to arrangements made with the Service Management Office. Contact details below.

SMO1 - Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester

Colchester
CO4 9YQ

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