

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	06/11/19
Planning Development Manager authorisation:	AN	12/11/19
Admin checks / despatch completed	CC	13/11/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	SNE	13/11/19

Application: 19/01050/OUT **Town / Parish:** Great Bromley Parish Council

Applicant: K W Robinson

Address: Badley Hall Farm Badley Hall Road Great Bromley

Development: Erection of dwelling for a farm stockman.

1. Town / Parish Council

Great Bromley Parish Council

Great Bromley Parish Council had no objection to the 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 within the existing boundary of Badley Hall Farm 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 the Highway Authority subject to the following conditions:

1. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

2. 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.

3. 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/carriageway (delete as appropriate).

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway/carriageway (delete as

appropriate) 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 Development, 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.

3. Planning History

00/01209/TPO	T.2 - remove large lower branch over field, crown lift over road; T.6, T.7, T.9, T.10 and T.11 - remove deadwood, crown lift over road and balance all round; T.8 - gale damaged, pollard or fell to ground level if found dangerous (TPO 97/48)	Approved	14.08.2000
00/01211/TPO	T.1 - T.6 - Oak and Ash trees - crown lift to 18ft over the road (TPO 7/86)	Approved	14.08.2000
04/02361/FUL	Porch.	Approved	01.02.2005
07/00305/AGRIC	Erection of general purpose agricultural building.	Determination	04.04.2007
09/00629/AGRIC2	Farm irrigation reservoir 45,500 cu metres capacity.		24.07.2014
10/00999/TPO	Remove epicormic growth and crown reduction by 30% of 2 Willow Trees	Approved	21.09.2010
11/00129/TPO	2 No. Willow - T3 & T4 - fell due to decay	Approved	28.02.2011
11/01269/TPO	1 No. Holm Oak - woodland G2 of TPO 97/48 - remove branch 30' to restore balance	Approved	24.11.2011
12/00043/FUL	Installation of two small scale wind turbines (14.7m to hub, 5.5m diameter blades).	Approved	15.03.2012

12/01446/FUL	Installation of single micro scale wind turbine (14.97m to hub, 5.6m diameter blades).	Approved	06.03.2013
18/00230/FUL	Replacement of a general purpose agricultural barn building destroyed by fire, with a new agricultural barn building.	Approved	28.03.2018
18/01835/TPO	1 No. Oak - remove overhanging branches to 6m max from ground level	Approved	26.11.2018
18/01836/TPO	8 No. Oak, 8 No. Ash, 2 No. Acer - remove overhanging branches to a height of 6m maximum	Approved	26.11.2018

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

EN1 Landscape Character

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG18 Permanent Dwellings for Agricultural Workers

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

TR7 Vehicle Parking at New Development

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

HP5 Open Space, Sports & Recreation Facilities

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SPL3 Sustainable Design

Local Planning Guidance

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 Badley Hall Farm, Badley Hall Road, Great Bromley, located on the western side of Bradley Hall Road. The site is a long-established farm holding measuring approximately 169 hectares, while there are numerous agricultural buildings throughout the site. To

the south-west of the site is a residential dwelling with an agricultural occupancy condition. The character of the area is largely rural, with large areas of grassed and agricultural land to all sides.

The site does falls of a recognised Settlement Development Boundary within both the Adopted Tendring Local Plan 2007 and Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Description of Proposal

This application seeks outline planning permission for the erection of a single dwelling. All matters, namely access, appearance, landscaping, layout and scale, do not form part of the determination of this application, and would instead be assessed within any future reserved matters application.

Assessment

1. Principle of development

At Paragraph 79 the National Planning Policy Framework (2019) states local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside.

Saved Policy HG18 (Permanent Dwellings for Agricultural Workers) reflected the aims of the now redundant PPS7 and sets out the relevant criteria against which the proposal should be assessed. Whilst PPS7 is redundant the method for assessing rural workers dwellings (i.e. the functional and financial tests) remains a key consideration to the merits of each individual case, and Policy HG18 states that permanent dwellings for agricultural or forestry workers will only be granted planning permission if:

- (i) There is a proven need for the dwelling to be located within the relevant agricultural or forestry unit as demonstrated by the applicant through both a "functional" and "financial test";
- (ii) The applicant is able to demonstrate that the size of the proposed dwelling is commensurate with the functional requirement of the agricultural unit and that the monetary income from the enterprise is able to sustain the cost of building and maintaining the dwelling;
- (iii) The enterprise has been carried out for a period of at least three years prior to the date of the planning application; and
- (iv) Alternative accommodation, which would also meet the functional requirements of the enterprise, is not available.

Detailed information has been provided by the agent for the application. Mr Robinson, who previously ran the farm along with his wife, was involved in a serious farm accident in 2018, resulting in him now being partly disabled and having had to hire a stockman, Tim Wood, to undertake care of the livestock.

The livestock side of the business has shown considerable expansion in recent years, with a holding of 55 head of beef cattle, 60 head of sheep and 55 pigs. Tim Wood now undertakes all of the livestock farming activities and assists where possible with other farming activities on the holding, with his working day generally being 6am - 7pm. No other workers are employed on the farm.

Concurrently, Mr and Mrs Robinson's daughter Becky has opened and developed a fully self-producing butchers within one of the farm buildings on site. This operation is now open three full days per week and provides the sole and significant income for Becky; however the butchers is dependent on the farm, while the livestock business is to a degree dependant on the sales of the meat reared.

The farm holding therefore has two separate agricultural business interests, namely the arable and livestock operations, each of which have their own specific operational requirements. With the number of livestock on site, it has been explained that a specialist worker or stockman is required to be in attendance for feeding, watering and general animal welfare across a 24 hour period. Further, by being in close proximity the stockman can be alerted by noise and react to any issues in good time, while Mr Robinson would be unable to transport livestock due to his aforementioned injury.

Given all of the above it is considered that a proven need for the dwelling to be located on this site has been justified.

With respect to the financial test, the business has been established since 1982, with the livestock element being developed since 2015. Further, the introduction of a butchery and farm shop, as well as the large numbers of livestock, demonstrate the operations on the site are sufficient to sustain a specialist stockman in addition to the existing farm owner. Further information has been provided showing a list of new machinery purchases totalling £60,000, and the cost of a replacement livestock barn for £120,000. Therefore, while financial accounts have not been provided, it is clear the business operates on a sound financial basis and therefore meets the financial test.

With respect to potential alternative accommodations, evidence has been provided that shows only one dwelling is for sale within a ½ mile radius of the site. This dwelling is on the market for £750,000, which is clearly not a realistic option for a worker on an agricultural stockman's salary.

It is therefore concluded that the proposal meets the relevant local and national criterion, and the principle of development is acceptable subject to the detailed considerations below.

2. Flood Risk

The initial plans showed that the dwelling was to be sited within Flood Zones 2 and 3. As such a Sequential Test to demonstrate that there are no reasonably available sites in a lower flood risk area would have been required to have been met. However, following discussions between the Case Officer and agent for the application, an amended plan was submitted showing the site to be located slightly to the west, which falls outside of a recognised flood zone.

3. Design and Layout

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

4. Residential Amenity

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).

Whilst the application is in outline form with all matters reserved, Officers consider that within any future full planning application there is sufficient space available on site and there are no nearby neighbours whose amenities could be impacted upon as a result of the proposed dwelling.

5. Highway Safety

Essex County Council Highways has been consulted as part of the process of this application and has stated the dwelling is located within the existing boundary of Badley Hall Farm and retains adequate room and provision for off street parking and turning. Therefore they raise no objections subject to a condition relating to cycle storage provision. However, given the size of the site, it is considered that within a future detailed application it can be demonstrated there is sufficient space to accommodate this. Therefore it would not be reasonable to include this as a condition to this decision.

6. Tree and Landscape Impacts

There are no trees or other significant vegetation on the application site. The position of the proposed dwelling is relatively detached from the existing farm house and buildings associated with the farm.

There is potential for the new dwelling to be visible from the Public Right of Way to the north and north-west, although an existing established hedgerow provides good screening from this viewpoint. Additionally if the dwelling were to be seen it would be against a back-drop of the existing farm buildings. Within a future reserved matters application details of a comprehensive planting scheme to soften and enhance the appearance of the dwelling should be provided.

7. 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 Stour & Orwell Estuaries Ramsar site. The contribution is secured by unilateral undertaking. There is therefore certainty that the development would not adversely affect the integrity of Stour & Orwell Estuaries Ramsar site 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

Great Bromley Parish Council do not object to the application.

There have been no other letters of representation received.

6. **Recommendation**

Approval.

7. **Conditions**

- 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 Details of the access, appearance, landscaping, layout and scale (hereinafter called 'the reserved matters') shall be submitted to and approved, in writing, by the Local Planning Authority before any development begins and the development shall be carried out as approved.

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, the untitled Site Location Plan received 2 August 2019, and the documents titled 'Planning Statement' and appendices PLG1, PLG2, PLG3, PLG4, PLG5, PLG6, PLG7, PLG8, PLG9 and PLG10.

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

- 5 The occupation of the hereby approved dwelling shall be limited to a person solely or mainly working or last working at Badley Hall Farm as an agricultural worker or a widow or widower of such a person and to any resident dependants.

Reason - The site of the permission is outside of any area where planning permission would normally be forthcoming for residential development not directly related to a clearly and specifically identified exceptional need related to a recognised countryside activity.

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.