

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AP	25/11/2019
Planning Development Manager authorisation:	TF	26/11/2019
Admin checks / despatch completed	<i>[Signature]</i>	29/11/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	29/11/19

**Application:** 19/01348/FUL                      **Town / Parish:** Frinton & Walton Town Council  
**Applicant:** Mr Paul Austen  
**Address:** 22 Ferndown Road Frinton On Sea Essex  
**Development:** Erection of soft-wood decking to front left and side elevation and enclose garden with soft-wood close panel fencing at 1.2m max (retrospective).

### 1. Town / Parish Council

Frinton and Walton Town Council      Recommend refusal - unsympathetic to the street scene.

### 2. Consultation Responses

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

1. In relation to the soft-wood close panel fencing a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway 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 2: 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](mailto:development.management@essexhighways.org) or by post to:

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



### 3. Planning History

94/01058/FUL	Proposed extension	Approved	25.10.1994
19/01348/FUL	Erection of soft-wood decking to front left and side elevation and enclose garden with soft-wood close panel fencing at 1.2m max (retrospective).	Current	

### 4. Relevant Policies / Government Guidance

National Planning Practice Guidance  
NPPF National Planning Policy Framework February 2019

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

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

#### Proposal

This application seeks retrospective planning permission for an area of decking to the front and side of the detached bungalow of 22 Ferndown Road as well as 1.2 metre high boundary fencing. The application site is located within the development boundary of Frinton on Sea.



### 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 decking has been sited at the front and northern side of the bungalow as this area makes up the largest area of the garden where the occupiers of 22 Ferndown Road are able to sit out. The back garden, which is situated on the south eastern corner of the site, partly behind the garage is at its widest 4 metres which is also in the shadow of the bungalow in the afternoon and evening due to its orientation and as a consequence it is less practical for use as a sitting out area. The bungalow occupies a slightly higher ground level in its siting towards the eastern side of the site and the ground level slopes westward towards the front boundary adjacent to Ferndown Road resulting in the decking being partially visible from the street between the existing mature shrubs. The decking is considered visually acceptable given it is a maximum of 0.445 metres in height taking into account the sloping ground level in addition to a planting plan that has been submitted as part of the planning application which proposes additional shrubs to offer further screening of the decking.

The 1.2 metre high close panel fence has been erected alongside the existing driveway, along the front boundary adjacent to Ferndown Drive continuing on the north side adjacent to Fifth Avenue. Consideration is given to the limit imposed by permitted development whereby fencing adjacent to a highway at a height of up to 1 metre can be erected without the need for planning permission. In this case the fencing is at a height of 0.20 metres above the permitted development limit and gives an element of enclosure to the garden which is now being used as the main garden for sitting out. The existing planting in established flower beds behind the fencing already provides soft landscaping and reduces the impact of the fencing on the street scene. Further planting as set out in the planting plan will help the fencing assimilate in its surroundings.

The decking and fencing will not cause any significant visual harm to the existing dwelling or the immediate area.

### Impact on neighbouring amenities

Due to the distance of the decking and fencing from the neighbouring properties and when taking into consideration the low level nature of the development there is no significant impact to existing amenities in terms of loss of light, privacy or outlook.

### Other Considerations

Frinton and Walton Town Council object to the planning application on the grounds that the development is unsympathetic to the street scene. This concern has been addressed in the report.

The proposal is acceptable to the Highway Authority subject to pedestrian visibility splays. The applicant has carried out an alteration to the fencing to ensure the pedestrian visibility splay can be met. The section of fencing within the visibility splay zone has been lowered to a height of 0.90 metres in the interest of highway safety.

No other letters of representation have been received.

### Conclusion

In the absence of any material harm as a result of the development, this application is recommended for approval.

## **6. Recommendation**

Approval - Full



**7. Conditions / Reasons for Refusal**

- 1 The development hereby permitted shall be carried out in accordance with the following approved plan: Block/Site Plan 1:200, photographs labelled D1, D2, D3, D4, D5, D5a, D6, D7, Planting Plan and photographs received 25 November 2019 showing reduced height of fence to comply with pedestrian visibility splay.

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

- 2 The planting shown on the approved Planting Plan shall be carried out within 3 months from the date of this decision. 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.

**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.

<b>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</b>	YES	NO
<b>Are there any third parties to be informed of the decision? If so, please specify:</b>	YES	NO