

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	17/01/2020
Planning Development Manager authorisation:	TF	17/01/2020
Admin checks / despatch completed	CC	17/01/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	XNQ	17/01/2020

Application: 19/001760/OUT **Town / Parish:** Frinton & Walton Town Council

Applicant: Mr C Anson

Address: Land adjacent Larkwood Kirby Road Great Holland

Development: One dwelling

1. Town / Parish Council

Frinton and Walton Town Council REFUSAL – backland development

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 Prior to first occupation of the proposed development, the proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority. Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

2 No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary. Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

3 The development shall not be occupied until such time as a car parking and turning area has been provided in accord with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

4 All off street car parking shall be provided in precise accord

with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

5 Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

6 No development shall take place, including any ground works or works of demolition, until a Construction Management Plan (CMP) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative1: 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

17/00667/OUT	Outline planning application with all matters reserved for the development of one dwelling.	Refused (dismissed at appeal)	20.06.2017
19/00726/OUT	Outline planning application with all matters reserved for the development of one dwelling.	Refused	15.11.2019

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

EN2 Local Green Gaps

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

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

PPL4 Biodiversity and Geodiversity

HP5 Open Space, Sports & Recreation Facilities

SPL1 Managing Growth

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 site, which measures 0.10 hectares, is land to the south-east of Larkswood, Kirby Road, Great Holland, which at the time of the site visit was an open grassed area with mature vegetation to northern and western boundaries. The character of the surrounding area is largely

rural, with large areas of open grassed or agricultural land to the east and further west particularly, although there are examples of some residential dwellings to the north and adjacent to the west. The site does not fall within a recognised Settlement Development Boundary, as agreed within the Tendring Local Plan 2007, but does fall within a recognised Local Green Gap.

Proposal

This application is in outline form with all matters reserved and proposes the erection of one detached dwelling.

Site History

Under planning reference 17/00667/OUT, planning permission was refused for the same scheme as being proposed within this application. The reason for refusal was the dwelling was located outside of a recognised settlement development boundary at a time when the Council was able to demonstrate a five year housing supply, while the site was also not considered to be socially sustainable.

This decision was also dismissed at appeal (appeal reference APP/P1560/W/17/3191632, dated 17 July 2018), with the Inspector stating "*Therefore I conclude that the proposal would not be supported by local planning policy over the location of new housing. In the consideration of this particular case, the application of local policy would not diverge from the aims of the Framework.*"

Under planning reference 19/00726/OUT, planning permission was refused as the applicant had not provided a financial contribution towards RAM's.

Assessment

Principle of Development

The application site lies outside of a Settlement Development Boundary as defined within the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Saved Tendring District Local Plan (2007). Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.

The National Planning Policy Framework 2019 (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 report, 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.

Whilst it is recognised that there would be conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site being sited outside the settlement development boundary, as stated above, in the context of the 5 year housing land supply paragraph 11 d) of the NPPF requires applications for housing development to be assessed on their merits, whether sites are allocated for development in the Local Plan or not and it is important to consider whether any circumstances outweigh this conflict.

Therefore, at this present time, it is correct to assess the housing development on its merits against the sustainable development objectives set out within Paragraph 8 of the NPPF. The economic objective, a social objective and an environmental objective are therefore assessed below.

Economic:

It is considered that the proposal for one dwelling would have a minor contribution economically to the area, for example by providing employment during the construction of the development and from future occupants using the nearby facilities, and so meets the economic arm of sustainable development.

Social:

The NPPF seeks to support a prosperous rural economy. It promotes sustainable transport and seeks a balance in favour of sustainable transport modes to give people a real choice about how they travel recognising that opportunities to maximise solutions will vary between urban and rural areas. With regard to the social dimension, this means supporting strong, vibrant and healthy communities by supplying the housing required to meet the needs of present and future generations and creating a high quality environment with accessible local services.

Within the previous application reference 17/00667/OUT, which was on the same site, on balance it was considered that the majority of trips, including those for day-to-day needs, would need to be made by car to access essential services and facilities, and therefore it failed to meet the social strand of sustainability.

However since the determination of that application there have been appeal decisions that have confirmed the surrounding area of Great Holland is sustainable. Within the most recent appeal decision (reference APP/P1560/W/19/3228344 - Land east of Pork Lane, Great Holland, dated 23 September 2019), the Inspector stated the following:

"The village of Great Holland is defined in the Local Plan as a 'smaller village' and as such contains a limited range of services. Nevertheless, there are services here which can be reached by a short walk or bicycle ride, although the lack of a continuous footway may, to a degree, discourage such a journey. These services include a farm shop, public house, community and church halls, a small business park and a children's play area. It is also served by bus services connecting to Clacton-on-Sea, Kirby Cross and Frinton-on-Sea, which contain a full range of services to cater for the day-to-day needs of residents. The bus further provides a connection to train stations in Kirby Cross and Frinton-on-Sea giving access to national rail routes. The travel required to access facilities providing for the day-to-day needs of residents would therefore not be restricted to use of a private car."

Therefore, despite Great Holland performing poorly within the Established Settlement Hierarchy (2016), which demonstrates it has no primary school, GP Surgery, defined village centre or railway station, the inspectors view is a material consideration and ensures the site meets the social strand of sustainability.

Environmental Impact

Within the earlier appeal decision at this application site, the Inspector stated *“Although the site contains the foundations of two cottages, which Larkswood replaced in the 1960s, this would now appear a quite arbitrary location for a new dwelling. This is compared to the recent approvals cited outside the SDB for housing at The Veldt, which reflected the adjacent frontage pattern, and Larges Farm, which involved the redevelopment of redundant farm buildings.”*

However, importantly the Inspector continued that *“Both of these decisions reflected a period when the Council was unable to demonstrate a five year supply of housing land and its policies were deemed as not up-to-date based on the requirements of paragraph 49 of the Framework. This is currently not the case following the Part 1 Examination of the ELP and the Inspector's findings on Tendring District's objectively assessed housing need. This supports the Council's current position that a 5.45 year housing land supply can now be demonstrated.”* Since this appeal decision, as stated above, the Council now does not have a five year supply of housing land and the titled balance must instead apply.

The area is predominantly rural in character. However, there are examples of two detached residential properties to the north, with another dwelling having recently been granted planning permission (reference 18/01950/FUL), and numerous semi-detached dwellings to the west. The application site is a grassed amenity area, protected with mature vegetation to the northern, eastern and southern boundaries, which limit views into the site from the surrounding area and as such the site does not form part of open countryside. Therefore the siting of a dwelling on the land would not appear as a prominent intrusion in the open countryside. Instead it would be viewed against the backdrop of existing vegetation and the existing dwellings to the north.

Furthermore, the site falls within a designated Local Green Gap. Policy EN2 the Tendring Local Plan 2007 states, amongst other things, that these areas should essentially be free of development, whilst minor development proposals may be permitted if they do no harm individually, or collectively, to the purposes of a Local Green Gap or to its open character.

There are concerns that the site is situated within the Soken Clay Plateau Landscape Character Area, with one of its key aims being to restrict development along roads between settlements, which could result in the merging of adjacent settlements into one continuous suburb, and as such it could be considered that the proposal would have an adverse impact on the local landscape character. However, whilst it is acknowledged that the proposal results in an intrusion to the existing Local Green Gap and Landscape Character Area, the minor nature of the proposal and that there are examples of other dwellings within the vicinity ensure that the construction of one dwelling will not have a significantly adverse impact to the character of the area, nor would it result in the merging of adjacent settlements, and the harm is therefore not significant enough to result in a reason for refusal.

Design, Layout and Appearance

Policy QL9 of the Tendring Local Plan 2007 states that all new development should make a positive contribution to the quality of the local environment and protect or enhance local character.

All detailed matters are reserved for later consideration and as such no detailed elevational drawings have been submitted as part of this particular application, although the site will be accessed via a new access point to the west from Kirby Road. Whilst it is acknowledged that the proposal site would be situated approximately 20 metres further back than the adjacent dwellings to the north along this section of Kirby Road, due to only a small number of existing dwellings there is not a strong building line that any future detailed proposal would need to adhere to, whilst the surrounding area is not defined by a particular type of dwelling, with examples of single and two storey dwellings nearby. Further, recent planning permission 18/01950/FUL was granted for one dwelling adjacent to the north that will be approximately in line with any future dwelling. It is therefore considered that the site is capable of accommodating one detached dwelling without resulting in any harm to the character and appearance 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 supplied does not indicate the number of bedrooms but any future detailed application should look to ensure the above standards are adhered to. It is considered there is sufficient space within the application site for this to be achieved.

Residential 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 neighbour potentially impacted upon as a result of the proposal is that to the north, known as Larkwood, who is also the applicant. Whilst the application is in outline form with all matters reserved, Officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties or the future occupiers of the proposed dwellings.

Highway Considerations

Essex County Council as the Highway Authority has been consulted on the application and has stated that they have no objections subject to a number of conditions relating to visibility splays, the width of the vehicular access, cycle parking, construction method statement, the use of no unbound materials, no discharge of surface water, and a vehicular parking and turning facility.

As details of the proposed access are subject to a later reserved matters application, it therefore does not form part of the assessment of this application and recommended conditions relating to this will not be included within any approval decision. However, the information supplied demonstrates that an access point can be provided which is sufficient at this stage.

Furthermore, the Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. Due to the size of the site it is considered that the site is capable of accommodating this level of parking.

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".

No contribution is being requested on this occasion.

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.

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

The application scheme proposes two dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 2.8 km away from Hamford Water RAMSAR Site and SPA.

New housing development within the ZOI would be likely to increase the number of recreational visitors to Hamford Water and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A completed unilateral undertaking has been received to secure the financial contribution required to mitigate against any recreational impact from the new dwelling and to ensure 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

Frinton and Walton Town Council recommend refusal as they do not support backland development.

In answer to this, the proposal does not represent a form of backland development.

No letters of representation have been 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 No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the access, appearance, landscaping, layout and scale have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - The application as submitted does not provide sufficient particulars for consideration of these details.

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.

Highways

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

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.