

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	21/11/19
Planning Development Manager authorisation:	TF	17/01/2020
Admin checks / despatch completed	CC	17/01/2020

21/01/20
17/01/20

Application: 19/00799/FUL **Town / Parish:** Weeley Parish Council

Applicant: Bricklawn Ltd

Address: Land East of Freelands Thorpe Road Weeley

Development: Proposed 3no. dwellings (renewal of planning permission as granted under 14/00608/OUT and 16/00271/DETAIL).

1. Town / Parish Council

Weeley Parish Council Weeley Parish Council has no comment to make on this application

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 occupation of the development, the road junction / access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 4.5 metres by 90 metres in both directions as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

2. Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

3. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

4. Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 10 metres from the back of carriageway and

provided with an appropriate dropped kerb crossing of the verge.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

5. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

6. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and 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.

7. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres and each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

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

8. All single garages should have a minimum internal measurement of 7m x 3m

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8.

9. 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.

10. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

11. 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: Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

Informative 2: 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 3: Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence. Therefore the applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway

Informative 4: 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.

3. Planning History

14/00608/OUT	Outline planning application with all matters reserved for the construction of 3 dwellings with associated garages and parking.	Approved	08.07.2014
16/00271/DETAIL	Reserved matters application for the construction of 3 dwellings with associated garages and parking.	Approved	27.05.2016
17/00829/FUL	Erection of 8 detached bungalows with associated access, parking, landscaping and ancillary works.	Refused	13.07.2017
18/00020/FUL	Erection of 8 detached bungalows.	Refused	28.02.2018

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

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

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

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

PPL4 Biodiversity and Geodiversity

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 is land to the east of the residential property known as Freelands, which is located to the southern section of Thorpe Road within the parish of Weeley. The site itself is currently laid to grass and forms part of a larger parcel of land. The northern section is marked by an established hedgerow, while Freelands to the west is a detached bungalow surrounded by mature vegetation. As the site currently forms part of a larger field the eastern and southern boundaries are not defined.

Thorpe Road comprises a linear form of development with a mixed character resulting from dwellings of varying scale, bulk, design and appearance. In the immediate vicinity of the site development is characterised by a number of large bungalows as well as some semi-detached properties.

The site falls outside of a Settlement Development Boundary within the Adopted Local Plan 2007, but falls within the Settlement Development Boundary for Weeley within the Emerging 2013-2033 Tendring Local Plan Publication Draft.

Proposal

This application seeks full planning permission for the erection of three dwellings, all of which will be detached, two storeys and accessed via Thorpe Road to the north. Each dwelling is to be served by four bedrooms.

Site History

Under planning references 14/00608/OUT and 16/00271/DETAIL, planning permission was granted on this site for the construction of 3 dwellings with associated garages and off-street parking. The development included three detached chalet style dwellings all with associated private car and amenity space. Each dwelling was served by four bedrooms.

However these decisions, which were determined 8 July 2014 and 27 May 2016, have since expired.

Assessment

1. Principle of Development

The site is situated within the defined settlement limits of Weeley as defined by the Emerging Publication Draft (2017) and therefore the principle of residential development in this location is acceptable subject to the detailed considerations as set out below.

2. Layout, 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 application is for three detached dwellings, to be located in a linear fashion adjacent to the existing property 'Freelands' to the west. They will be accessed off a newly created access point to the north of the site off Thorpe Road. The development will be sited in line with Freelands, therefore helping to extend the existing building line. There are therefore no objections to the proposed layout.

The proposed dwellings are all chalet style in height and of a design, appearance and scale which reflects the development along Thorpe Road. Features have been incorporated within all three dwellings to help soften their impact, including dormers, front gables, brick plinths, canopy's and window details. Given this, and the proposed soft landscaping to all boundaries, it is considered the dwellings will assimilate well within the surrounding area.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of three bedrooms or more should be a minimum of 100 square metres. The submitted plans show that this will be achieved for all three new dwellings.

3. Impact to Neighbouring 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 nearest neighbouring property potentially impacted upon as a result of the proposed development is Freelands, located approximately 2m to the west of the application site. However, given there is an approximate separation distance of 3.5m to the nearest proposed dwelling it is

not considered the development will appear significantly imposing or result in significant loss of light.

With respect to potential overlooking, Plot 1 has no first floor side elevation windows that could directly overlook. While it is noted there are first floor rear elevation windows, views from these are only to the rear of Freelands curtilage, an area less likely to be regularly occupied. The harm identified is therefore not sufficient to warrant a reason for refusal.

4. Highway Safety

Essex Highways Authority have been consulted and have stated they have no objections to the proposed scheme subject to conditions relating to visibility splays, a vehicular turning facility, the use of no unbound materials, the width of the private drive, no discharge of surface water and any new boundary planting is to be sited a minimum of 1 metre from the highway boundary. Had the application been recommended for approval, these would have been included as conditions.

Further conditions relating to cycle parking provision and the submission of a Residential Travel Information Pack were requested; however given there is sufficient space within the site to accommodate cycle storage, and that the proposal is not a major development, it would not be reasonable to have included these conditions had the decision been recommended for approval.

Furthermore, Adopted Car Parking Standards state that for a dwelling of two or more bedrooms, provision should be made for a minimum of two parking spaces measuring 5.5m x 2.9m or a garage, if being used as one of the parking space, should have a minimum internal measurement of 7m x 3m. While the garage does not meet these requirements, there is sufficient space to the front and side of the dwellings to accommodate the necessary two parking spaces.

5. Tree and Landscapes

The main body of the application site is set to grass and does not contain any trees or other significant vegetation. The front boundary with the highway and the eastern boundary are demarcated by an established Hawthorn hedgerow.

Other than the removal of a short section of hedgerow on the northern boundary with the highway the remainder is shown as retained. It will provide a good level of screening and will improve the appearance of the development.

If planning permission had been granted then conditions would have been attached to secure details of the way that the hedgerow will be physically protected for the duration of the construction phase of the development, and to secure details of soft landscaping.

6. 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".

There is currently a deficit of -2.18 hectares of equipped play in Weeley. However, although there is a current deficit due to the size and location of this development it is unlikely that this proposal will have an impact on the current deficit. Therefore no contribution is being requested on this occasion.

7. Habitats Regulation Assessment

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. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation

Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) in particular the Hamford Water Ramsar and SPA site, mitigation measures will need to be in place prior to occupation.

A request for a Unilateral Undertaking agreement was sent to the agent dated 15 July 2019. Following this two extension of time agreements, dated 19 September 2019 and 20 October 2019, were signed by the agent to delay the determination of the application until the Unilateral Undertaking had been completed. However a further extension of time was requested given the Unilateral Undertaking had still not been completed in time, but this was not agreed by the agent for the application.

A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to 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

Weeley Parish Council has no comment to make on the application.

There have been no other letters of representation received.

6. Recommendation

Refusal.

7. Reasons for Refusal

- 1 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. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) in particular the Hamford Water Ramsar and SPA site, mitigation measures will need to be in place prior to occupation.

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8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.