

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	10/02/2020
Planning Development Manager authorisation:	AN	10/2/20
Admin checks / despatch completed	CC	11/2/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	XAO	11/02/2020

Application: 19/01654/OUT **Town / Parish:** Brightlingsea Town Council

Applicant: Mr George Traer Clark

Address: Land to The rear of 64 Red Barn Road Brightlingsea

Development: Erection of a detached single storey bungalow with two parking spaces.

1. Town / Parish Council

Brightlingsea Town
Council

Back Land Development; narrowness of lane at access point;
close proximity to other properties.

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 proposed vehicle access for the dwelling will be located on Folkards Lane; the proposal is like other planning applications recently submitted for Folkards Lane. The proposed dwelling will be provided with off road parking for two vehicles therefore:

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 full width of the site frontage shall be provided with a clear to ground parallel visibility band with dimensions of no less than 2m depth as measured from and along the nearside edge of the highway. Such vehicular visibility band shall be provided before 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 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 the vehicular parking facility, as shown on the submitted plan 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 controlled manner 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 or drive throughout.

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

4. Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity. Any vehicular parking space which is bounded by walls or other construction shall have minimum dimensions of 3.4 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.

5. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan 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 underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and 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: 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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

3. Planning History

19/01654/OUT	Erection of a detached single storey bungalow with two parking spaces.	Current
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4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN23 Development Within the Proximity of a Listed Building

COM6 Provision of Recreational Open Space for New Residential Development

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL4 Biodiversity and Geodiversity

SPL1 Managing Growth

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

PPL9 Listed Buildings

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 (including Site Description and Proposal)

Site Description

The application site refers to the land to the rear of 64 Red Barn Road, Brightlingsea which is located within the settlement boundary of Brightlingsea. This site is accessed from Folkards Lane.

Proposal

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

Assessment

The main considerations for this application are;

- Principle of development
- Design, Layout and Appearance
- Residential Amenities
- Highway Considerations
- Heritage Impact
- Legal Obligations
- Habitat Regulations Assessment
- Other Considerations

Principle of Development

The site is located within the Settlement Development Boundary (SDB) for Brightlingsea, as established within the emerging local plan. Policy HG3 of the Tendring District Local Plan 2007 states that within defined development boundaries of towns and villages, residential development will be permitted provided it satisfies amenity, design, density, environmental, highway, local housing needs and sustainability criteria, as appropriate, and can take place without material harm to the character of the local area. The principle for residential development is therefore accepted subject to the detailed consideration below.

Design, Layout 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).

All detailed matters are reserved for later consideration, an indicative block plan has been provided to indicate how the development could be achieved within the application site. The indicative plan demonstrates that the site can accommodate a one bedroom dwelling with two parking spaces which will be accessed off of Folkards Lane.

The amended design and access statement states that the proposal is for a single storey, two bedroom detached dwelling. The block plan provided demonstrates that the proposed dwelling can accommodate in excess of 75 square metres of private amenity space in line with Policy HG9 of the Tendring District Local Plan 2007.

The application site adjoins existing residential development to the south which comprises of one storey dwellings. To the north of the application site are two detached bungalows approved under planning reference 18/01828/DETAIL and to the west of the site is a one and a half storey dwelling approved under planning reference 17/00141/FUL. It is therefore considered that the proposed

development is an infill site that can accommodate a dwelling. A condition will be imposed to ensure that the proposed dwelling is single storey to ensure that it is in keeping with the character of the surrounding area and to reduce the impact upon neighbouring amenities.

Therefore, it is considered that a detailed design, layout and landscaping scheme could be provided at reserved matters stage which would preserve the character of the surrounding area and it would be acceptable in terms of visual impact.

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).

Appearance and layout are reserved for later consideration. It is considered that a dwelling on the site could be accommodated with no material loss of amenity in terms of loss of light, outlook or privacy due to the degree of separation to neighbouring dwellings. It is therefore considered that sufficient spacing can be achieved to all neighbouring boundaries to not cause any harm to the neighbouring amenities.

Highway Considerations

Essex County Council as the Highway Authority have been consulted on the application and have stated that the proposed vehicle access for the dwelling will be located on Folkards Lane; the proposal is like other planning applications recently submitted for Folkards Lane. The proposed dwelling will be provided with off road parking for two vehicles. The Authority do not have any objections subject to a number of conditions relating to; width of the site frontage, vehicular parking facility, no unbound materials, parking space measurements and Construction Method Statement.

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 the majority of the recommended conditions relating to this will not be included within any approval decision apart from the construction method statement which will be imposed. 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. The indicative block plan provided demonstrates that two parking spaces can be achieved in line with Essex Parking Standards to the front of the proposed dwelling.

Heritage Impact

Policy EN23 of the adopted Tendring District Local Plan (2007) seeks to ensure that any proposals for development that would adversely affect the setting of a Listed Building, including group value and long distance views will not be permitted. Policy PPL9 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) seeks to ensure that the proposals for new developments affecting a listed building or setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric: are explained and justified through an informed assessment and understanding of the significance of the heritage asset and its setting; and are of a scale, design and use materials and finishes that respect the listed building and its setting.

The application site is located approximately 25 metres away from number 66 Red Barn Road, a Grade II Listed Building. However, due to the separation distance between the proposed dwelling and the Listed Building, it is considered that the dwelling will have a neutral impact upon the setting of the Listed Building.

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 1km away from Colne Estuary RAMSAR, SPA and SAC.

New housing development within the Zoi would be likely to increase the number of recreational visitors to the Colne Estuary 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

Brightlingsea Town Council have been consulted on this application and object due to the proposal being backland development, narrowness of lane at access point and close proximity to other properties.

In response to the concerns raised; the application site is not considered to be backland development as the site can be accessed via Folkards Lane. Essex Highways Authority have been consulted on this application and do not raise any objections in regards to the access. The indicative block plan demonstrates that the proposed dwelling can be accommodated on site with sufficient spacing to the neighbouring dwellings.

Three letters of objection have been received raising the following concerns;

- The site notice not erected in the correct location

In response to the concern raised above, the officer erected the site notice to a telegraph pole which was in close proximity to the application site.

- Neighbour not consulted correctly

In response to the concern raised above, the Council has a statutory requirement to either notify neighbouring properties of a planning application, or erect a site notice. Tendring District Council undertakes both forms of notification to ensure that all interested parties are aware of planning applications and have the opportunity to comment. Neighbour notifications are automatically sent to adjacent properties that share a common boundary with the red lined application site area, and additional letters are sent if considered necessary following the case officer's site visit. A neighbour notification letter was sent to 'Stableview'. The character of the area has changed significantly since 2006 following appeal decisions and planning permissions.

- There is no existing access to the proposed application site and there is concern over the construction and developers access to the site.

As part of the application process, Essex Highway Authority have no objections. However, they have provided comments in regards to conditions which will be taken into consideration when a reserved matters application is submitted.

- The lane is narrow and the access for lorries and construction traffic would cause more delays and disruptions to local resident traffic including businesses such as the kennels.

Essex Highways Authority have provided a condition which will be imposed at the reserved matters stage of the planning process relating to the construction method statement which will identify the concerns raised above.

- The application site was subject of a past planning application which was turned down due to its size, position and access.

The concern raised above refers to planning reference 06/01908/FUL which was refused planning permission for a dwelling due to the site being overdevelopment and the impact upon highway safety. The proposed dwelling has been assessed within the delegated report and it is an infill site which retains sufficient distance to all neighbouring boundaries to not create a cramped development.

- The proposed bungalow is on the narrowest part of the lane presents serious safety concerns.

The Highway Authority have been consulted on this application and have raised no objection to the access onto Folkards Lane.

- The proposal would be an inappropriate form of development in terms of the harm to the character and appearance of the site.

The above concern has been addressed within the report.

6. Recommendation

Approval - Outline

7. Conditions / Reasons for Refusal

- 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.

- 4 The dwelling hereby permitted shall be single storey only.

Reason - In the interests of visual amenity having regard to the character of Folkards Lane and Red Barn Road and in order to minimise the impact upon neighbouring amenities.

- 5 No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period.

The Plan 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 underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety.

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

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.

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.

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The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

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.

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