

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	21/02/2020
Planning Development Manager authorisation:	AN	21/02/2020
Admin checks / despatch completed	CC	21/02/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	RNO	21/02/2020

Application: 19/00057/DETAIL **Town / Parish:** Tendring Parish Council

Applicant: James Fairley & Son (Farms Ltd)

Address: Land North of Parsonage Lane Tendring Essex

Development: Reserved Matters for the residential development of two detached dwellings following application 14/1410/OUT.

1. Town / Parish Council

Great Oakley Parish Council Great Oakley Parish Council have no objections to make regarding this application.

Tendring Parish Council Tendring Parish Council have no objection to this application, but asks if there are suitable sewage arrangements in place as there are historical issues within the village regarding this.

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 measures:

1 Prior to the first occupation of the proposed dwellings, the proposed vehicular access shall be constructed to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety and in accordance with Policy DM 1.

2 No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6 metres 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

3 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

4 The development shall not be occupied until such time as the car parking and turning area, indicated on the preliminary plan, Drwg. No. 1234/07 has been hard surfaced and sealed. The car parking area shall be retained in this form at all times and shall not be used for any

purpose other than the parking 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.

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 Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the carriageway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the carriageway 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.

Design Informative:

1. A 2.4 metre parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage must be provided.

2. The applicant should ensure that vehicles can enter and leave the highway in a forward gear. As per the Essex Parking Standards (Parking Standards: Design and Good Practice, Sept 2009) 6 metres should be provided behind each parking space to allow for manoeuvring.

Informative 3 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 4 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 5 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 7: 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

14/01410/OUT	Outline planning application with all matter reserved for the residential development of 0.2 ha of land to create 2 detached dwellings with associated garaging and parking.	Refused	16.01.2015
		Allowed on appeal	11.01.2016

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

EN1 Landscape Character

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SPL1 Managing Growth

SPL3 Sustainable Design

LP1 Housing Supply

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

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 (including Site Description and Proposal)

Site Description

The site is located on land to the east of No. 10 Parsonage Lane at the junction with Chapel Lane and Wolves Hall Lane. The site extends approximately 0.15 hectares in size and comprises grassland bounded by a hedgerow to the south-east, a row of evergreen trees to the west and is open to the north, where it adjoins an arable agricultural field. To the west of the site lies pairs of semi-detached houses. Wolves Hall Lane, which adjoins the site to the south-east is narrow. On the opposite side of Wolves Hall Lane is an arable agricultural field bounded by hedgerows.

Description of Proposal

The application seeks approval of the reserved matters for the residential development of two detached dwellings following application 14/1410/OUT allowed on appeal (ref: APP/P1560/W/15/3130031).

Application 14/01410/OUT was made with all matters reserved. This application is therefore assessing the access, layout, scale, appearance and landscaping for the proposed development.

Assessment

The main considerations are;

- Principle of Development;
- Scale, Layout and Appearance;
- Residential Amenities;
- Trees and Landscaping;
- Highway Considerations and Parking Provision;
- Financial Contribution – Recreational Disturbance;
- Requirements of Outline Conditions; and,
- Representations.

Principle of Development

Outline planning application with all matters reserved for the residential development of 0.2 ha of land to create 2 detached dwellings with associated garaging and parking was refused in January 2015 (reference 14/01410/OUT). Subsequently, an appeal was allowed in January 2016.

The principle of residential development has been established by the appeal decision under appeal reference APP/P1560/W/15/3130031.

Scale, Layout and Appearance

The layout of the development allows for well-spaced properties retaining for 1 metre or more to their respective boundaries in excess of the standards set out within saved Policy HG14 of the adopted Plan; being well set back from the highway and providing rear gardens in excess of the minimum standards required by saved Policy HG9 of the adopted Local Plan.

There is sufficient variation in siting and finish of the dwellings to result in a visually varied but harmonious street scene.

The 1.5 storey scale of the development minimises the visual impact within the immediate locality as well as ensuring that longer distance views of the development from the adjacent open fields would be minimised. This is further softened by the retention of some of the existing mature hedgerow and trees along the site boundaries and additional planting proposed.

The 1.5m close boarded fencing to the rear and side boundaries of the site is not wholly appropriate on this edge of settlement location, however, the visual impact is mitigated by new hedgerow planting.

Overall the development is considered to represent an acceptable scale, layout and appearance that will not appear harmful to visual amenity or the character and appearance of the street scene.

Residential Amenities

The separation distances, general juxtaposition, 1.5 storey height and arrangement of the dwellings ensure that no material harm to neighbouring amenities will result with approximately 15 metres being retained to the immediate neighbour to the west.

Each dwelling is served by a private amenity area in excess of policy requirements set out within saved Policy HG9.

The proposal is considered acceptable in terms of neighbouring impact and residential amenities.

Trees and Landscaping

The application has been amended to ensure the hedge planting is extended to include the whole of the site frontage and the eastern and northern boundaries.

In terms of the demarcation of the boundary with 1.5m tall close board fencing it is felt that this is not suitable for this location. The suggestion of a low post and rail or chain-link fencing was rejected by the agent. However, the amended plan secures the siting of the fence inside the proposed planting, which once established will be suitably screen the fence.

Highway Considerations and Parking Provision

The dwellings will be served by a central access with driveways leading to their parking bays sited to their frontages. The site frontages and layout provide turning and parking in accordance with current Essex County Council Highway Standards.

Essex County Council Highway Authority raise no objection to the development subject to conditions which will be imposed where necessary.

Financial Contribution - Recreational Disturbance

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 a residential development on a site that lies within the Zone of Influence (Zoi) being approximately 5100 metres from Hamford Water Ramsar, SPA and SAC. New housing development within the Zoi would be likely to increase the number of recreational visitors to the 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 provided to secure this legal obligation 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.

Requirements of Outline Conditions

The outline application was allowed on appeal subject to the standard reserved matters and time limit conditions together with the requirement for the submission and approval of a construction method statement. An informative will be added advising the applicant that this condition remains outstanding.

Representations

Great Oakley Parish Council have no objections to this application.

Tendring Parish Council have no objection to this application, but asks if there are suitable sewage arrangements in place as there are historical issues within the village regarding this.

3 letters of objection have been received. The concerns raised can be summarised as follows;

- Insufficient infrastructure and amenities to support new housing in this location.
- No mains drainage.
- Narrow road unsuitable for more traffic.
- Highway and pedestrian safety issues.
- Roads are very narrow and cannot cope with more traffic.
- Contributes to urban sprawl and harm to green Hamlet of Tendring.
- Overdevelopment.
- Harm to wildlife and biodiversity.
- Development should be focussed to towns and more built up areas.
- Loss of agricultural land.
- Loss of green space which contributes positively to visual amenity.
- No need for more housing in this area.

In response to the above objections, there can be no objection to the principle of residential development on this site given the appeal decision. This application simply deals with the design, appearance, scale, access and landscaping associated with the approved development. For the reasons set out above, there is no harm in relation to the reserved matters under consideration. In terms of drainage and sewerage, these are a matter for the building regulations stages of the development. With appropriately worded conditions, officers consider that the impacts of the development can be suitably mitigated.

Conclusion

In the absence of any material harm resulting from the reserved matters associated with the approved development, the application is recommended for approval subject to the appropriate conditions.

6. Recommendation

Approval - Reserved Matters/Detailed

7. Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: DRG. No. 1234/01, DRG. No. 1234/02, DRG. No. 1234/03, DRG. No. 1234/04, DRG. No. 1234/05, DRG. No. 1234/06 and DRG. No. 1234/07 B.

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

- 2 Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), other than those shown on the approved drawings, no provision of fences, walls or other enclosures shall be erected along the northern boundary, eastern boundary or forward of the front elevation of each dwelling hereby approved except in accordance with details that shall previously be approved in writing by the Local Planning Authority.

Reason - In the interests of visual amenity and landscape impact.

- 3 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B, C and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no additions or alterations to the dwelling or its roof, nor shall any buildings, enclosures, swimming or other pool be erected except in accordance with drawings showing the design and siting of such additions and/or building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - It is necessary for the local planning authority to be able to consider and control further development in order to ensure that landscape harm does not result in this edge of settlement location.

- 4 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on approved plan DRG. No. 1234/07 B and referred to in Paragraph 4.8 of the accompanying Planning Statement shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. 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 ensure the implementation and adequate maintenance of the approved landscaping scheme for a period of five years in the interests of the landscape character and quality of the development.

- 5 Prior to the first occupation of the proposed dwellings, the proposed vehicular access shall be constructed to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge to the specifications of the Highway Authority.

Reason - To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety.

- 6 No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6 metres of the highway boundary.

Reason - To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

- 7 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.

- 8 The development shall not be occupied until such time as the car parking and turning area, indicated on approved DRG. No. 1234/07B has been hard surfaced and sealed. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking 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.

- 9 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.

- 10 All new parking areas and areas of hardstanding shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the site.

Reason - In the interests of sustainable development and to minimise the risk of surface water flooding.

- 11 The removal of all vegetation shall only be carried out outside of the bird nesting season (March to August inclusive).

Reason - To ensure the protection of birds potentially nesting on site.

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.

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.

Conditions Precedent

As this is a reserved matters application any decision will need to be read in conjunction with the outline consent 14/0140/OUT allowed on appeal reference APP/P1650/W/15/3130031 which contains conditions that remain relevant to the development and one that will require a discharge of condition application prior to the commencement of development.

Highways Informatives

Informative 1. A 2.4 metre parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage must be provided.

Informative 2. The applicant should ensure that vehicles can enter and leave the highway in a forward gear. As per the Essex Parking Standards (Parking Standards: Design and Good Practice, Sept 2009) 6 metres should be provided behind each parking space to allow for manoeuvring.

Informative 3: 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 4: 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 5: 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 6: 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:

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