

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	WC	25/2/2020
Planning Development Manager authorisation:	AN	25/2/20
Admin checks / despatch completed	CC	26/2/20
Technician Final Checks/ Scanned / LC Notified / UU Emails:	AP	26/2/2020

Application: 19/01659/DETAIL **Town / Parish:** Mistley Parish Council

Applicant: Mr Ward

Address: Land adjacent Fairview Heath Road Mistley

Development: Erection of one detached dwelling (Submission of Reserved Matters following grant of outline planning permission on appeal under reference 17/01124/OUT)

1. Town / Parish Council

Mrs Susan Clements

The Parish Council's Planning Committee at its Meeting on the 5th December 2019 noted that there are no plans available on the LPA's website relating to the application under 17/01124/OUT and therefore, the plans under 19/01659/DETAIL must be the only plans in existence and it can therefore, be concluded that no size was given in either the Outline or this Detailed application for the size of the dwelling. Following the vote, the Committee considered that this application should be refused on the grounds that the dwelling is unacceptably cramped and is extremely large given the size of the plot and would be over development of the site. The dwelling will look contrived between the two large adequately sized and spaced dwellings on their own respective large plots. A smaller property would be more suited to this narrow plot as in its current form the three properties will look too close together and therefore, out of place in this semi-rural location. The Committee also referred to the likely adverse effect on the character of the area and residential amenity and street scene, NPPF paragraph 127, PPS1, Policy QL9 (Design of new development) and Policy QL11.

2. Consultation Responses

Tree & Landscape Officer

The main body of the application site does not contain any trees or other significant vegetation. There are several trees on the site boundaries and on adjacent land that do not unduly constrain the development potential of the land.

The boundary with the highway is demarcated by an established hedgerow and a single Lombardy Poplar. The tree is a mature healthy specimen that makes a positive contribution to the character and appearance of the area.

ECC Highways Dept

The development proposal shows that the tree and the boundary hedge are to be retained.

The site layout plan also provides a sufficient level of detail relating to soft landscaping associated with the development of the land- primarily the planting of two new trees to the south of the vehicular access.

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 vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall be a maximum of 4.5 metres (equivalent of 5 low kerbs), shall be retained at that width for 6 metres within the site.
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.

2. Prior to first occupation of the dwelling the vehicular parking and turning facility, as shown on the block plan; Drawing no. RM-10 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/ site in 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 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.

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

5. 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.

6. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the footway / cycleway or where no provision of footway/cycleway is present, the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety in accordance with policy DM1.

7. 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.

8. 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.

Informative 1: Steps should be taken to ensure that the Developer provides enough 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: 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. No comments at this time.

Building Control and
Access Officer

3. Planning History

13/00334/FUL	Erection of dwelling and detached garage.	Approved	09.07.2013
13/01189/FUL	Erection of dwelling and detached garage (amended scheme pursuant to implemented planning	Approved	16.12.2013

	permission 13/00334/FUL).		
17/01124/OUT	Erection of one detached dwelling.	Refused	30.08.2017
17/01808/OUT	Erection of one detached dwelling.	Refused	11.12.2017
18/01457/DETAIL	Reserved matters application for the erection of one detached dwelling.	Approved	29.10.2018
19/01659/DETAIL	Erection of one detached dwelling (Submission of Reserved Matters following grant of outline planning permission on appeal under reference 17/01124/OUT)	Current	

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

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

EN1 Landscape Character

EN5A Area Proposed as an Extension to the Suffolk Coasts and Heaths AONB

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG9 Private Amenity Space

HG14 Side Isolation

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

LP1 Housing Supply

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

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 (including Site Description and Proposal)

Site Description

The application site, which measures 0.10 hectares, is land adjacent to Fairview, Heath Road, Mistley. The character of the surrounding area is relatively rural, with large areas of open agricultural land further to the east and west particularly, although there are examples of some urban built form in the immediate vicinity of the site, namely to the south along Heath Road. The site does not fall within a recognised Settlement Development Boundary, as agreed in both the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft. The site also lies within an Area proposed as an Extension to the Suffolk Coast and Heath AONB and also within a Coastal Protection Belt within the Adopted Tendring Local Plan 2007 only.

Description of Proposal

This application is a reserved matters application only and deals with all matters reserved from the previous outline permission 17/01124/OUT; namely access, appearance, landscaping, layout and scale.

The proposal seeks one detached dwelling, being served by four bedrooms.

Site History

Under planning reference 17/01124/OUT, planning permission was refused for a single detached dwelling, due to the Council being able to demonstrate a five year housing supply and the site falling outside of a recognised Settlement Development Boundary, and also within one of the Districts smaller rural settlements.

Under planning reference 17/01808/OUT, planning permission was also refused for a single detached dwelling, due to the Council being able to demonstrate a five year housing supply, the site falling outside of a recognised Settlement Development Boundary, and the site failing to meet the social strand of sustainability.

However under appeal reference APP/P1560/W/17/3187415 (dated 12 February 2018) this decision was allowed with the Inspector concluding "On balance, for the reasons set out above, I find that the adverse impacts in this case, arising from the location of the appeal site outwith the development boundary for Mistley, do not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. I conclude, therefore, that the appeal should succeed."

Following this appeal decision, under planning reference 18/01457/DETAIL permission was granted for the reserved matters, which allowed a two storey detached dwelling that was served by four bedrooms.

Assessment

1. 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 submitted plans show the detached dwelling is to be sited to the north of Fairview, and will be accessed via Heath Road to the west. Due to being sited equidistant between two existing residential dwellings, the proposal will not appear particularly prominent from views from either the north or south.

The dwelling is to be sited broadly in line with Kebunteh to the north and Fairview to the south. The building line to this eastern section of Heath Road is not particularly strong, with only a handful of dwellings; however those dwellings are closely related to the application site and it is felt the additional dwelling would relate well and help to develop a pattern of development. There are therefore no principle concerns regarding the dwellings siting.

Whilst there are few dwellings to this section of Heath Road, it is acknowledged there is a semi-rural character, with the nearby dwellings being two storeys and incorporating a mixed use of cream render, brick plinths and front gables. The proposed dwelling includes a mixture of materials such as cladding, white render and red brick. While these are not necessarily entirely in-keeping, it will not be visually harmful. Further, the dwelling incorporates features such as a front gable and bay window, a chimney and brick plinth that help to soften the dwellings overall appearance and ensure it will assimilate well within its surroundings.

Policy HG9 of the Saved Tendring Local Plan 2007 states that the private amenity space for a dwelling with three bedrooms or more should be a minimum of 100sqm. The plans demonstrate that this level of private amenity space can comfortably be accommodated.

2. Residential Amenity

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).

In terms of the impacts to neighbouring amenities, the adjacent neighbours to the north and south are located approximately 6m and 10m respectively. This separation distance ensures that the dwelling will not appear overly imposing, especially given there were stables on the site previously, and will also not result in a significant loss of light. Further, in terms of overlooking the dwelling has been designed to ensure the only first floor side elevation windows that would have direct views to either neighbouring garden are to serve a bathroom and en-suites. To the rear elevation there are first floor windows, and a Juliet Balcony, however these would only allow views to the rear of neighbouring gardens, areas less likely to be regularly occupied. Therefore, the harm identified to existing amenities is not detrimental enough to warrant a reason for refusal.

3. Highway Safety

Essex County Council as the Highway Authority has been consulted on the application and has stated that they have no objections subject to the access width, a vehicular parking and turning facility, the use of no unbound materials, any boundary planting being sited 1m back from the highway, and any gates being inward opening only.

A condition was also requested for storage of bicycles; however given the site is of a sufficient size to accommodate bicycle storage, this condition is not considered reasonable or necessary on this occasion.

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. Whilst the proposed garage does not meet the above requirements, there is sufficient space to the front of the dwelling to accommodate the necessary parking requirements.

4. Trees and Landscapes

The main body of the application site does not contain any trees or other significant vegetation. There are several trees on the site boundaries and on adjacent land that do not unduly constrain the development potential of the land.

The boundary with the highway is demarcated by an established hedgerow and a single Lombardy Poplar. The tree is a mature healthy specimen that makes a positive contribution to the character and appearance of the area.

The development proposal shows that the tree and the boundary hedge are to be retained.

The site layout plan also provides a sufficient level of detail relating to soft landscaping associated with the development of the land- primarily the planting of two new trees to the south of the vehicular access.

5. Habitat Regulations 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.

Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be the RAMS level contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on the Stour and Orwell Estuaries Ramsar and SPA. The contribution is secured by unilateral undertaking. There is therefore certainty that the development would not adversely affect the integrity of the Stour and Orwell Estuaries Ramsar and SPA 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

Mistley Parish Council have objected to the proposed development as it is unacceptably cramped and would represent overdevelopment of the site. The proposal would therefore result in visual harm to the street scene.

In answer to this, the visual impacts have been addressed within the main body of the report above.

There has been one letter of observation received, with concerns raised that storage of materials are to be located and confined along the northern boundary, as opposed to the southern boundary as shown within the submitted Construction Method Statement. It is considered the relocation of this to the southern location, with its mature hedge, would be less offensive.

In answer to this, while the comments are noted, this is a short term issue during construction works only, and therefore any harm as a result must be viewed in this context. Essex Highways Authority have also raised no objections, and therefore it would not be reasonable to request the applicant relocate this on this occasion.

Conclusion

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

6. Recommendation

7. Conditions / Reasons for Refusal

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans, drawing numbers 3417-RM-LOC, RM-10, RM-11, and the document titled 'Construction Method Statement'.

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

- 2 Prior to occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall be a maximum of 4.5 metres, shall be retained at that width for 6 metres within the site.

Reason - To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.

- 3 Prior to first occupation of the dwelling the vehicular parking and turning facility, as shown on drawing number RM-10, 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/ site in forward gear in the interest of highway safety.

- 4 No unbound material shall be used in the surface treatment of the vehicular access throughout.

Reason - To avoid displacement of loose material onto the highway in the interests of highway safety.

- 5 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.

- 6 Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.

Reason - To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent carriageway in the interest 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 Informatives:

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.

Steps should be taken to ensure that the Developer provides enough 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.

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.

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