

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	19/03/2020
Planning Development Manager authorisation:	AN	19/3/2020
Admin checks / despatch completed	CC	19/3/20
Technician Final Checks/ Scanned / LC Notified / UU Emails:	<i>Xue</i>	19/03/2020

**Application:** 19/01370/FUL **Town / Parish:** Frinton & Walton Town Council

**Applicant:** Mr & Mrs Ilsley

**Address:** 63 Wittonwood Road Frinton On Sea Essex

**Development:** Sub-division of site to form an additional dwelling, and associated works including new vehicular access to 63 Wittonwood Road.

### **1. Town / Parish Council**

Frinton and Walton Town Council      Approval

### **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 proposal is situated within an existing 30-mph speed limit near the local school; the properties in this area do not have vehicular turning areas; the proposals provide adequate off-street parking for the existing and proposed dwelling 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 dwelling a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the new vehicular access for 63 Wittonwood Road. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1.

2. No unbound material shall be used in the surface treatment of the new or existing vehicular access or driveway.

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

3. Prior to occupation of the new dwelling the new vehicular access for 63 Wittonwood Road 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 not be more than 4.5 metres (5 low kerbs), shall be retained at that width for 6 metres

within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

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.

Note: The maximum length of low kerbs you may have is 5 low kerbs for a single crossing which is 4.5 metres.

4. 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.

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. Each vehicular parking space shall have minimum dimensions of 2.9 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.

7. The Cycle / Powered Two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle / powered two-wheeler 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: 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.

### **3. Planning History**

02/01846/FUL      Retention of garage with store over      Approved      30.10.2002

### **4. Relevant Policies / Government Guidance**

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG9 Private Amenity Space

HG14 Side Isolation

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

CP1 Sustainable Transport and Accessibility

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

### **Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested

at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

## **5. Officer Appraisal**

### Site Description

The application site is land to the south of Number 63 Wittonwood Road, which falls within the parish of Frinton-on-Sea. The site currently forms part of the garden area for 63 Wittonwood Road, and also includes a single storey detached garage. The surrounding area is heavily urbanised, with residential dwellings to all sides. Approximately 20m to the south-west is Frinton-on-Sea Primary School, while the Frinton Town Centre is approximately 300m to the east.

The site falls within the Settlement Development Boundary for Frinton-on-Sea within both the Adopted Tendring Local Plan 2007 and within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

### Description of Proposal

This application seeks full planning permission for the erection of one detached dwelling, which will be two storey and served by three bedrooms. The proposal also sees the creation of an access point to serve 63 Wittonwood Road.

### Assessment

#### 1. Principle of Development

The site is situated within the defined settlement limits of Frinton-on-Sea as defined by both the adopted Tendring District Local Plan (2007) and 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 site is located in a prominent corner plot between Wittonwood Road and School Road. The existing garden is well planted with a range of small trees, shrubs and conifers, which make a pleasant contribution to both the character and appearance of the locality. The proposed dwelling, and associated works including a new access point, parking bays and loss of existing vegetation, will combine to result in a harmful visual addition to the street scene. Moreover, in terms of the design of the dwelling itself, it is of a bland appearance with no features to help break up the overall bulk. It is therefore considered that the proposed dwelling would be a harmful addition to the street scene that neither preserves or enhances the areas existing character or appearance.

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. Within the preamble of this policy it further defines private amenity space as a private outdoor sitting area not overlooked by adjacent or opposite living rooms or outdoor sitting areas. The information submitted indicates there is 98 square metres provision for the new dwelling, and 102 square metres for 63 Wittonwood Road. However, the private amenity area for the proposed dwelling would include areas to the side and front of the dwelling, which will be visible from the street scene and are therefore not considered private. Given this, the proposal has failed to demonstrate it can meet the

minimum private amenity area provision, which further emphasises its cramped and overdeveloped appearance.

It is noted that under planning permission 18/00547/FUL, a single dwelling was approved in a similar corner plot location between School Road and Fifth Avenue to the south. While it is acknowledged there are similarities with this current scheme, the Officer within their report explained there was not such a strong building line and that "*The proposed dwelling incorporates features such as a forward projecting gable element, a mixture of materials, a false chimney and stone window sill details. These ensure that the individual design of the dwelling is of a good standard but also ensures that the development will appear in keeping within the street scene picking up characteristics of existing properties.*" Given this, and that sufficient private amenity areas were provided, it is considered there are key differences between the two schemes that ensures this earlier approval does not result in a precedent being set that the current application should also be recommended for approval.

### 3. Impact upon neighbours

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 proposed dwelling is located in close proximity to a number of residential dwellings, notably 61 and 63 Wittonwood Road to the north, and 1 School Road to the south.

With regards to the impacts to 61 and 63 Wittonwood Road, there is an approximate 7.7 metre separation distance, which reduces the dwellings overall prominence. Further it is noted that the proposed there are no first floor side elevation windows that can directly overlook, while rear elevation windows would only have partial views of rear garden areas, and are obscure glazed in any case.

While the dwelling is sited close to 1 School Road, there is a separation distance of 4.8 metres, which reduces the impacts in terms of loss of light or the dwelling appearing significantly imposing. With regards to overlooking the rear elevation first floor windows are obscure glazed, and while there is a first floor side elevation window serving a bedroom, due to the neighbouring dwelling being set back, there will only be minimal views into the garden area.

Therefore, while there is a degree of harm to neighbouring amenities, on balance this is not considered to be significant enough to warrant a reason for refusal.

### 4. Highway Considerations and Parking Provision

Essex County Council as the Highways Authority do not object to the proposed development subject to conditions relating to visibility splays, the use of no unbound materials, the width of the access, there being no discharge of surface water on to the highway, and any boundary planting being set back 1 metre from the highway. A further condition relating to the submission of cycle storage provision was requested, however given there is sufficient space within the site for this, this would not have been attached as a condition had the decision been an approval.

Adopted Car Parking Standards state that for a dwelling with two bedrooms or more, provision should be made for a minimum of two parking spaces measuring 5.5m x 2.9m. The submitted plans demonstrate that this is achievable for both the existing and proposed dwellings.

### 5. Trees and Landscaping

The most prominent tree is a *Liriodendron tulipifera* (Tulip Tree). This tree is shown as retained and will remain in the garden of 63 Wittonwood Road. It is not affected by the development proposal.

Collectively the small trees, shrubs and other associated planting makes a pleasant contribution to both the character and appearance of the locality, however none of the trees meet the criteria under which they merit formal legal protection by means of a Tree Preservation Order. The shrubs do not fall within the scope of legislation under which they could be formally legally protected.

A soft landscaping condition will be imposed to soften and enhance the appearance of the development.

## 6. Open Space

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".

A contribution towards Open Spaces is not considered to be relevant or justified to this application, and accordingly has not been requested on this occasion.

## 7. Habitat Regulations 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.

The application scheme proposes one dwelling on a site that lies within the Zone of Influence (Zoi) being approximately 2,200 metres from the Hamford Water Ramsar and SPA. Since the development is for five dwellings, the number of additional recreational visitors would be limited and the likely effects on Hamford Water from the proposed development alone may not be significant. However, new housing development within the Zoi would be likely to increase the number of recreational visitors to Hamford Water and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A 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

Frinton and Walton Town Council have recommended approval.

There have been no other letters of representation received.

## 6. Recommendation

Refusal.

## 7. Reasons for Refusal

- 1 Paragraph 127 of the National Planning Policy Framework (2019) states planning policies and decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and

appropriate and effective landscaping, and are sympathetic to local character and history, including the surrounding built environment and landscape setting.

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 site is located in a prominent corner plot between Wittonwood Road and School Road. The existing garden is well planted with a range of small trees, shrubs and conifers, which make a pleasant contribution to both the character and appearance of the locality. The proposed dwelling, and associated works including a new access point, parking bays and loss of existing vegetation, will combine to result in a harmful visual addition to the street scene. Moreover, in terms of the design of the dwelling itself, it is of a bland appearance with no features to help break up the overall bulk. Furthermore, the proposed dwelling will be seen in conjunction with the development along School Road, and is to be sited further forward than 1 and 3 School Road, thereby creating a staggered appearance that is not in-keeping with the existing pattern of development.

It is therefore considered that the proposed dwelling would be a harmful addition to the street scene that neither preserves or enhances the areas existing character or appearance, and thereby fails to adhere to the above local and national policies.

- 2 Policy HG9 of the Saved Tendring District Local Plan 2007 states that private amenity space for a dwelling of three bedrooms or more should be a minimum of 100 square metres. Within the preamble of this policy it further defines private amenity space as a private outdoor sitting area not overlooked by adjacent or opposite living rooms or outdoor sitting areas.

The information submitted indicates there is 98 square metres provision for the new dwelling. However the private amenity area would include areas to the side and front of the dwelling, which will be visible from the street scene and are therefore not considered private. Given this the proposal has failed to demonstrate it can meet the minimum private amenity area provision, and therefore fails to adhere to the above policy.

- 3 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 one dwelling on a site that lies within the Zone of Influence (Zoi) being approximately 2,200 metres from the Hamford Water Ramsar and SPA. Since the development is for one dwelling, the number of additional recreational visitors would be limited and the likely effects on Hamford Water from the proposed development alone may not be significant. However, new housing development within the Zoi would be likely to increase the number of recreational visitors to Hamford Water and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A 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



## **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. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.