

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	15/05/2020
Planning Development Manager authorisation:	SCE	15.05.20
Admin checks / despatch completed	CC	15.05.2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CD	15.05.2020

**Application:** 18/00395/FUL **Town / Parish:** Weeley Parish Council

**Applicant:** Mr & Mrs K Green

**Address:** 35 St Andrews Road Weeley Clacton On Sea

**Development:** Proposed detached bungalow and associated parking and access.

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

Weeley Parish Council

Weeley Parish Council is of the view that this application constitutes back land development. The proposed access is too narrow and the site would be over developed.

### **2. Consultation Responses**

ECC Highways Dept  
26.03.2018

This Authority has assessed the highway and transportation impact of the proposal and does not wish to raise an objection subject to the following:

' Prior to occupation of the development the vehicular turning facilities, 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 forward gear in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

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

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

' 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 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Note: With reference to the above condition the applicants attention should be drawn to the recent alterations to householder 'permitted development' in so far as there is now the need to provide a permeable solution (SUDS) for the hard standing to reduce the cumulative impact of surface water run-off and overloading of sewers.

' Both the new property, and the donor property shall be provided with 2 parking spaces and 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 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

' Any single garages should have a minimum internal measurement of 7m x 3m

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

NOTE: - Public Rights of Way - The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath no4 (Weeley) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.

NOTE - Site Workers - 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. No vehicles associated with the development shall affect the ease of passage along the PROW.

INF01 Highway Works - All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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](mailto:development.management@essexhighways.org) or by post to:

SMO1 ' Essex Highways, Colchester Highways Depot, 653, The Crescent, Colchester Business Park, Colchester CO49YQ

INF02 Cost of Works - 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**

19/01108/TPO	1 No. Oak - reduce side growth by 2.5 m.	Approved	30.08.2019
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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

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG13 Backland Residential Development

HG14 Side Isolation

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

EN6 Biodiversity

EN1 Landscape Character

EN11A Protection of International Sites European Sites and RAMSAR Sites

COM6 Provision of Recreational Open Space for New Residential Development

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

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP3 Housing Density and Standards

LP4 Housing Layout

LP8 Backland Residential Development

CP1	Sustainable Transport and Accessibility
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
HP5	Open Space, Sports & Recreation Facilities

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). 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, whilst housing delivery over the last three years has exceeded requirements, the supply of deliverable housing sites going forward that the Council can demonstrate still 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 relates to 35 Andrews Road, Weeley a west facing semi-detached chalet style dwelling within the Parish and Settlement Development Boundary of Weeley. The site lies to the eastern end of St Andrews Road set back behind number 37 at the former hammerhead of the cul-de-sac (now opened up for the residential development of 14 dwellings to the east). The neighbouring dwellings to the west are well set back with open frontages. Numbers 35 and 37 address the street being westerly facing with their front doors accessible by their own pedestrian pathway alongside the open frontages of neighbouring properties. There is a detached double garage to the rear of number 37 fronting St Andrews Road that serves both 37 and 35. To the rear of the site is a large Oak tree upon which a new Tree Preservation Order has been made during the course of this application. A residential development comprising 14 houses approved under 15/01750/FUL and amended under 17/02163/FUL has now been completed to the west of the site and is almost fully occupied.

### Description of Proposal

Following numerous negotiations with the former agent on the application and the receipt of amended plans, the application now seeks full planning permission for the subdivision of 35 St Andrews Road and the erection of a 2 bedroom detached bungalow and associated parking including alterations to the existing donor dwelling and its parking.

Access is to be created to the eastern side of the site following the demolition of the existing garage serving number 35 running along the rear of number 35 and 37. The proposed dwelling takes on a traditional design to be finished in brick and interlocking concrete tiles.

### Assessment

The main considerations are;

- Principle of Development;
- Scale, Layout and Appearance (including backland siting);
- Trees and Landscaping;
- Residential Amenities;
- Highways and Parking;
- Financial Contribution – Open Space and Play Space;
- Financial Contribution – Recreational Disturbance; and,
- Representations.

### Principle of Development

Policy HG3 of the adopted Tendring District Local Plan (2007) sets out the requirements for new residential development within defined settlements stating, inter alia, that residential development will be permitted provided it satisfies scale, design and amenities and can take place without material harm to the character of the local area.

The site is located within the defined settlement limits of Weeley where the principle of residential development is acceptable in line with Policy HG3 subject to the detailed considerations assessed below.

## Scale, Layout and Appearance

Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. In addition, adopted Tendring District Local Plan (2007) 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. Again these sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Furthermore, saved Policy HG13 of the adopted plan states that development of backland sites will be refused where the proposal would (iv) result in tandem development using a shared access and (vii) be out of character. Furthermore, saved Policy HG14 of the adopted plan seeks to ensure that new development is appropriate in its setting and does not create a cramped appearance.

The application proposes the erection of a 2 bedroom detached bungalow located to the rear of existing properties all of which front or address St Andrews Road. The angled position of numbers 35 and 37 are an exception in the street scene with the remainder of St Andrews Road being characterised by linear development, the majority of which are semi-detached chalet style dwellings. Whilst it is recognised that the development to the east has resulted in the creation of dwellings in a setback position in relation to the properties in St Andrews Road, these are part of a comprehensive development for dwellings all with road frontages and would not be considered 'backland' development that would justify approval the approval of a dwelling in this position. St Andrews Road and the new St Andrews Close take on their own character and are not comparable for the purposes of assessing this application.

The development will result in a long narrow access to the rear of number 35 and 37. The subdivision of the site results in 2 small contrived areas of garden to serve the donor dwelling as well as a cramped frontage and poor outlook for the proposed dwelling fronting on to the boundary fence of number 35. The backland siting of the proposed dwelling is wholly out of character and harmful in its setting. The footprint of the dwelling, layout and siting in close proximity to the side and front boundaries creates a cramped appearance being out of character with the scale, design and spacing of dwellings in the locality. Overall, the development will appear overly cramped and wholly out of keeping to the severe detriment of the character of the area.

## Trees and Landscaping

Saved Policy EN1 relates to landscape character and states, inter alia, that development control will seek in particular to conserve features which contribute to local distinctiveness, which includes important hedgerows and trees. Following consultation with the Council's Principle Tree and Landscaping Officer, the mature Oak tree to the north of the site has now been afforded protection by way of a Tree Preservation Order 18/00003/TPO.

The amended site layout plan shows a separation of 6m between the proposed dwelling and the outer limit of the Root Protection Area (RPA) of the protected Oak.

This figure is based on the assumption that the existing extension to 35 St Andrews Road will be demolished and will become the part of the application site allocated as a car port and parking space for the host property.

If the above separation can be achieved then it would be possible for the development proposal to be implemented without causing harm to the oak. If it cannot be achieved then there is insufficient space for the development as proposed.

However, the tree would be a dominant feature in the private amenity space and cause shading for much of the garden.

### Residential Amenities

Paragraph 127 of the National Planning Policy Framework states that planning should always seek to secure a good standard of amenity for all existing and future occupants. In addition, Policy QL11 of the adopted Tendring District Local Plan (2007) 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'. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives. In addition, saved Policy HG13 of the adopted plan states that development of backland sites will only be permitted where the proposal would (ii) not result in an unreasonable loss of amenity to existing dwellings. Furthermore, saved Policy HG14 of the adopted plan seeks to ensure that new development safeguards the amenities and aspect of adjoining residents. In addition, saved Policy HG9 of the adopted local plan provides minimum private amenity space standards requiring 75 square metres for dwellings with 2 bedrooms and 100 square metres for dwellings with 3 or more bedrooms.

The proposed development would result in a poor standard of amenity for the occupants of the donor dwelling, proposed dwelling and neighbouring dwelling at number 33 St Andrews Road. In terms of amenity space, the proposed dwelling would be served by a private garden area that accords with minimum standards, however, as mentioned above, the tree would be a dominant feature in the private amenity space and cause shading for much of the garden. The resultant garden area for the donor dwelling would again comply with minimum standards but result in 2 small pockets of unconnected garden with the northern section being dominated by the bulk of the roof of the new dwelling. Furthermore, the siting of the proposed dwelling in close proximity to its front and side boundaries would result in a poor standard of outlook and level of daylight to the internal accommodation. The proposed bungalow is considered to be of an acceptable design in itself but does not reflect the style or scale of dwellings in the locality demonstrating its contrived design in an attempt to minimise the impact on neighbouring amenity. The proposed dwelling is positioned in close proximity to the shared boundary with number 33 St Andrews Road. Whilst it is recognised that the dwelling has a hipped roof arrangement, the dwelling would result in 8 metres of built form along this neighbouring boundary dominating the garden of number 33 and resulting in an unneighbourly and oppressive relationship. The hipped roof and orientation of the plot means that there will be no material loss of light and the single storey nature means that there will be no loss of privacy to number 33. However, the depth, height and siting of the proposed dwelling together with the proximity to the boundary is unacceptable.

### Access and Parking

Paragraph 108 of the National Planning Policy Framework 2019 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Furthermore, Essex County Council Parking Standards 2009 require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces are provided. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied upon for parking, should measure 7 metres by 3 metres internally.

There is an existing garage on the site which is to be removed to allow the creation of a shared access to the side and rear of the site. There is an existing side extension also to be demolished to

allow the proposed layout which includes the provision of 2 parking spaces to the side of the proposed dwelling, a car port and parking space for the donor property and a shared turning area.

The parking dimensions and number of spaces per dwelling created meet current standards. Traffic movements from the existing dwelling to and from its garage already exist. Traffic movements from 1 additional dwelling would not be excessive and therefore unlikely to result in any significant harm to highway or pedestrian safety.

The Highway Authority raises no objection to the proposal subject to conditions.

For these reasons, a refusal based on highway safety could not be justified in this instance.

#### Financial Contribution – Open Space and Play Space

Paragraph 54 of the National Planning Policy Framework (2019) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

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". These sentiments are carried forward within emerging Policy HP5.

There is currently a deficit of -2.18 hectares of equipped play and formal open space in Weeley. There are two play areas in Weeley. One located at Hilltop Crescent and one along Clacton Road which has limited provisions for toddlers and teenagers. Both play areas are classified as Local Equipped Areas for Play. Due to the limited provision in Weeley, in terms of both play and formal open space it would be necessary to increase provision in the area should further development take place. Any contribution received would be used to improve the toddler equipment at the play area along Clacton Road.

Due to the significant lack of facilities in Weeley if it felt that a contribution is justified and relevant to this planning application. Any contribution would be used to improve the toddler equipment at Clacton Road, Weeley.

A completed unilateral undertaking has been received to secure the financial contribution required.

#### 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 on a site that lies within the Zone of Influence (Zoi) approximately 4400 metres from the Hamford Water SPA, SAC and Ramsar. 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.

### Representations

Weeley Parish Council objects to the application on the following grounds;

- Backland development.
- Narrow access.
- Overdevelopment of the site.

A total of 8 letters of objection have been received in response to both the original and amended proposals. The concerns raised can be summarised as follows;

- Overdevelopment of the site.
- Narrow road and access.
- Development will exacerbate existing parking issues.
- Bungalow too close to existing gardens.
- Loss of light and outlook.
- Loss of privacy and enjoyment of our garden.
- Feel of being hemmed in /bungalow will dominate out garden and outlook.

*The principle of development and its harmful impact has been addressed in the main report above.*

- Devalue our property.

This is not a material planning consideration.

### Conclusion

For the reasons set out above, the proposed development is considered contrary to national and local planning policy and is therefore recommended for refusal.

## **6. Recommendation**

Refusal - Full

## **7. Reasons for Refusal**

- 1 Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes onto say that local distinctiveness should be promoted and reinforced. In addition, adopted Tendring District Local Plan (2007) 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. Again these sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

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The scale, siting and layout of the proposed development is therefore contrary to the aims of the aforementioned national and local plan policies.

- 2 Paragraph 127 of the National Planning Policy Framework states that planning should always seek to secure a good standard of amenity for all existing and future occupants. In addition, Policy QL11 of the adopted Tendring District Local Plan (2007) 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'. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives. In addition, saved Policy HG13 of the adopted plan states that development of backland sites will only be permitted where the proposal would (ii) not result in an unreasonable loss of amenity to existing dwellings. Furthermore, saved Policy HG14 of the adopted plan seeks to ensure that new development safeguards the amenities and aspect of adjoining residents. In addition, saved Policy HG9 of the adopted local plan provides minimum private amenity space standards requiring 75 square metres for dwellings with 2 bedrooms and 100 square metres for dwellings with 3 or more bedrooms.

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no loss of privacy to number 33. However, the depth, height and siting of the proposed dwelling together with the proximity to the boundary is unacceptable.

The development will therefore be materially harmful to residential amenities and create a poor standard of amenity for existing and future occupants contrary to the aims of the aforementioned national and local policies.

## **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 former agent and applicant for the application. 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.