

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	JD	08/07/2020
Planning Development Manager authorisation:	TF	08/07/2020
Admin checks / despatch completed	CC	08/07/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	BB	08/07/2020

Application: 20/00508/DETAIL **Town / Parish:** Thorrington Parish Council

Applicant: Mr Sam Turner

Address: Woodlands Business Park, Sambeck Caravans Tenpenny Hill Thorrington

Development: Proposed reserved matters pursuant to 18/00466/OUT allowed at appeal, to build 2no two-storey residential (use class C3) dwellings at the currently vacant land at Sambeck Caravans, Woodlands Business Park, Tenpenny Hill, Thorrington CO7 8JD. Reserved matters to formally use the existing right of way access road between existing properties Delaval Lodge and Verran.

1. Town / Parish Council

No response to date.

2. Consultation Responses

ECC Highways Dept
08.06.2020

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 the first occupation of the proposed development, the proposed vehicular access shall be reconstructed at right angles to the highway boundary and shall be provided with an appropriate vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

2 No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m 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 of the Highway Authority's Development Management Policies February 2011.

3 Any gates erected at the vehicular access shall be inward opening only and shall be recessed a minimum of 6m. from the highway boundary.

Reason: To ensure that vehicles using the access may stand clear of the carriageway whilst those gates are being opened/closed, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

4 The development shall not be occupied until such time as a car parking and turning area has been provided in accord with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning 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 of the Highway Authority's Development Management Policies February 2011.

5 Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

6 No development shall take place, including any ground works or works of demolition, until a Construction Management Plan (CMP) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative1: The proposed means of access (The track between Delaval Lodge and Verran) is satisfactory and appropriate for the scale of this proposed development but is not suitable for any further development whatsoever.

Informative2: 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

18/00466/OUT	Two dwellings.	Refused	15.05.2018
18/00467/FUL	Proposed new offices.	Approved	15.05.2018
20/00508/DETAIL	Proposed reserved matters pursuant to 18/00466/OUT allowed at appeal, to build 2no two-storey residential (use class C3) dwellings at the currently vacant land at Sambeck Caravans, Woodlands Business Park, Tenpenny Hill, Thorrington CO7 8JD. Reserved matters to formally use the existing right of way access road between existing properties Delaval Lodge and Verran.	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG13 Backland Residential Development

EN3 Coastal Protection Belt

TR1A Development Affecting Highways

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

SP1 Presumption in Favour of Sustainable Development

SPL3 Sustainable Design

LP8 Backland Residential Development

PPL2 Coastal Protection Belt

PPL3 The Rural Landscape

CP2 Improving the Transport Network

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, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities 'Garden Communities' proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.

The three North Essex Authorities are currently considering the Inspector's advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. 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.

5. Officer Appraisal

Site Description

This application relates to a vehicular access and an elongated parcel of land behind it from the highway. The vehicular access is on the western side of Brightlingsea Road, part of the B1029. A staggered crossroads junction, Thorrington Cross, is nearby to the north.

Google Earth photography of the site shows a field type gate with a strip of untended ground set between residential curtilages.

Proposal

Proposed reserved matters pursuant to 18/00466/OUT allowed at appeal, to build 2no two-storey residential (use class C3) dwellings at the currently vacant land at Sambeck Caravans, Woodlands Business Park, Tenpenny Hill, Thorrington CO7 8JD. Reserved matters to formally use the existing right of way access road between existing properties Delaval Lodge and Verran.

Appraisal

In July 2019 planning permission (18/00466/OUT) was granted at appeal (APP/P1560/W/18/3216163) for two dwellings. The application was an outline application with all matters reserved; access was a reserved matter. This current application is to address access.

Essex County Council, the local highway authority, has written to confirm that it has no objection to the proposal subject to the imposition of conditions. An informative from the local highway authority comments that the proposed means of access (The track between Delaval Lodge and Verran) is satisfactory and appropriate for the scale of this proposed development but is not suitable for any further development whatsoever.

The local highway authority advises that conditions should be imposed on a planning permission with regard to detailed construction of the vehicular access; a solid surface for the first 6m into the site; and, any gate to be set in 6m into the site. These conditions are considered reasonable and necessary with regard to the proposal (in relation to a gate, it is considered that a condition to require that no gate be erected is necessary since a gate could adversely affect the character of the semi-rural setting of the site and a gate could create noise and other disturbance to occupiers of neighbouring properties by the operation of the gate itself and vehicles stopping and accelerating away from the gate). A condition is recommended that a Construction Management Plan is agreed prior to first construction. This would relate to both the creation of the vehicular access and the other construction for the two dwellings. However, such a condition is considered both reasonable and necessary since the vehicular access and the dwellings would, it seems probable, be constructed at effectively the same time.

Conditions are recommended regarding parking and turning and regarding bicycle storage. It is considered that such matters should be addressed when the reserved matter of design is addressed by the applicant. The site appears of an adequate size for two dwellings such that issues of parking and turning and of bicycle storage would not be problematic.

The proposal is considered acceptable with regard to Policy TR1a.

The site is within the Coastal Protection Belt where the local planning authority would normally wish to prevent features with an urban character such as engineered road junctions. However, having examined the decision letter from the Inspector and in the light of the appeal history, there is no reasonable ground to refuse the current application in relation to adverse impact to the character of the countryside. Given the history of the site and the setting amongst a continuous line of residential development, the proposal is acceptable with regard to Policy EN3.

The proposal would cause some noise and other disturbance to occupiers of neighbouring properties due to the vehicular access being set to the side of rear gardens. In this regard the proposal is contrary to Policy QL11 (iv). The vehicular access is to serve a backland site. Policy HG13 is concerned with backland residential development and states that such proposals will be permitted where all of a number of criteria are met. However the principle issues of Policy HG13 have been addressed by the appeal decision.

At paragraph 12 of the Inspector's decision letter it is stated:

*“Occupiers of dwellings on Brightlingsea Road have raised concerns that the new dwellings would be built too close to their homes or to the raised bank to their rear, and also concern about possible use of a strip of land next to ‘Vernon’ to gain access to Brightlingsea Road. However, as layout and access are reserved matters these concerns can be addressed during the consideration of details submitted at that stage. I have seen no substantive evidence to lead me to conclude that the site is not in principle large enough, or is otherwise unsuitable, for 2 dwellings to be appropriately sited **and accessed** without causing unacceptable harm.”*

It would have been possible for the Inspector to impose a condition to the outline planning permission to the effect that access not be via the land the subject of this current application but no such condition was imposed.

It is considered that noise and other disturbance to neighbours would not cause such a material adverse impact as to reasonably constitute a reason for refusal.

Occupiers of 8 neighbouring properties were consulted by letter. 6 written objections have been received which make points summarised as follows:

- Would cause noise
- My hedge would be removed
- Loss of privacy
- Loss of security
- Access should be through the caravan site
- Emergency vehicles would not be able to access
- Lane too narrow

- Would encourage further development using this access

The issue regarding noise has been addressed above. Loss of a hedge would be a private matter. Any loss of privacy or security would not be so great as to reasonably form a reason for refusal. Any alternative means of access is not a valid consideration. The width of the lane is thought ample for emergency vehicles to access. Any future proposal to use the access for further development than that already allowed at appeal would have to be dealt with by a future planning application.

6. Recommendation

Approval - Reserved Matters/Detailed

7. Conditions / Reasons for Refusal

1. The development hereby permitted shall be carried out in accordance with the following approved plans: D-200-001; D-200-002; D-200-003; and, Technical Note by K & K Professional Ltd dated 15 April 2020.

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

2. Prior to the first use of the access to the site, the proposed vehicular access shall be reconstructed at right angles to the highway boundary and shall be provided with an appropriate vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason - To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy TR1a of the adopted Local Plan and Policy CP2 of the emerging Local Plan.

3. No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m 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 TR1a of the adopted Local Plan and Policy CP2 of the emerging Local Plan.

4. No gate or other barrier shall be erected on the vehicular access.

Reason - In the interests of highway safety and of the appearance and character of the site and its surroundings in accordance with Policy TR1a of the adopted Local Plan and Policy CP2 of the emerging Local Plan and Policies QL9, QL11 and EN3 of the adopted Local Plan and Policies PPL 2 and PPL 3 of the emerging Local Plan.

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

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

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

The proposed means of access (The track between Delaval Lodge and Verran) is satisfactory and appropriate for the scale of this proposed development but is not suitable for any further development whatsoever.

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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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