

# **DELEGATED DECISION OFFICER REPORT**

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	ML	22/07/2020
Planning Development Manager authorisation:	TF	23/07/2020
Admin checks / despatch completed	CC	24.07.2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CD	24.07.2020

**Application:** 20/00104/DETAIL

**Town / Parish:** Mistley Parish Council

**Applicant:** CALA Homes (North Home Counties)

**Address:** Land East of New Road Mistley

**Development:** Approval of Reserved Matters and clearance of conditions 1 and 4 of application 19/01956/OUT relating to the erection of 67 dwellings together with the formation of an access.

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

Mistley Parish Council Committee noted the highway condition and tree matters on the reserved matters conditions on an already dangerous junction and recommended refusal on highways and as a result of the number of vehicle movements as a result of these additional dwellings.

## **2. Consultation Responses**

ECC Highways Dept No comments

ECC SuDS Consultee  
05.06.2020

Lead Local Flood Authority position  
Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission based on the following:

The detail provided on the layout is sufficient to meet the criteria for a reserved matters application. Further information should be provided on surface water drainage at the discharge of conditions stage in order to comply with the surface water conditions put on the application by the appeal decision notice (APP/P1560/W/17/3176089).

**Tree & Landscape Officer** The application site comprises part of the residential curtilages of 8  
18.06.2020 and 10 New Road and a small field to the south east currently in agricultural use.

In terms of soft landscaping the applicant has submitted a detailed and comprehensive planting scheme that will soften, enhance and partially screen the development.

With regard to the potential impact of the development on the trees and hedgerows on the application and on adjacent land the applicant provided an Arboricultural Implications Assessment (AIA) in support of planning application 17/0004/OUT. The report showed the extent of the constraint that the trees are on the development potential of the land. It identified trees that would need to be removed in order to facilitate the development.

The information contained in the AIA is in accordance with BS5837 2012 Trees in relation to designs, demolition and construction: Recommendations.

There are several small trees in the gardens of the properties in New Road; some of which would need to be removed in order to facilitate the development proposal. The landscaping proposals include details of replacement tree planting that will mitigate the harm to the appearance of the public realm caused by the removal of these trees.

The agricultural field has strong boundary hedgerows and a single Sycamore close to the southern boundary. The hedgerows and Sycamore are shown as retained and measures for their physical protection are included in the AIA.

None of the trees identified for removal make such a contribution to the appearance of the Conservation Area that they merit formal legal protection by means of a Tree Preservation Order (TPO).

In summary the information provided by the applicant is considered sufficient in terms of soft landscaping and tree protection.

### **3. Planning History**

17/00004/OUT	Erection of 67 dwellings together with formation of access.	Refused (Allowed on Appeal)	07.04.2017
18/01767/OUT	Variation of Condition 4 approved plans 0964-F01 rev D, and 1628 URB XX XX GA 90 001 Rev H) of APP/P1560/W/17/3176089, to provide a re-worked layout to provide wider roads to improve emergency access and to incorporate a mix of housing types including detached dwellings, semi-detached properties and apartments.	Refused	12.04.2019
19/00978/OUT	Variation of condition 4 of application 17/00004/OUT (approved at appeal APP/P1560/W/17/3176089) to amend the approved layout.	Refused	01.11.2019
19/01043/DISCON	Discharge of condition 17 (Bus Stop Upgrades) of application 19/01956/OUT	Approved	17.04.2020
19/01956/OUT	Variation of condition 4 (Approved Plans) to amend to approved layout of application 17/00004/OUT (Approved on appeal APP/P1560/W/17/3176089).	Approved	16.04.2020

20/00104/DETAIL	Approval of Reserved Matters and clearance of conditions 1 and 4 of application 19/01956/OUT relating to the erection of 67 dwellings together with the formation of an access.	Current
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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*

QL1	Spatial Strategy
QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
HG1	Housing Provision
HG3	Residential Development within Defined Settlements
HG3A	Mixed Communities
HG4	Affordable Housing in New Developments
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
COM2	Community Safety
COM6	Provision of Recreational Open Space for New Residential Development
COM21	Light Pollution
COM23	General Pollution
COM26	Contributions to Education Provision
COM29	Utilities
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN6	Biodiversity

EN6A	Protected Species
EN6B	Habitat Creation
EN13	Sustainable Drainage Systems
EN17	Conservation Areas
EN23	Development within the Proximity of a Listed Building
EN29	Archaeology
TR1A	Development Affecting Highways
TR3A	Provision for Walking
TR4	Safeguarding and Improving Public Rights of Way
TR5	Provision for Cycling
TR6	Provision for Public Transport Use
TR7	Vehicle Parking at New Development

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

SP1	Presumption in Favour of Sustainable Development
SP4	Providing for Employment & Retail
SP5	Infrastructure & Connectivity
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP1	Improving Health and Wellbeing
HP4	Safeguarded Local Greenspace
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
LP5	Affordable and Council Housing
PPL8	Conservation Areas
PPL9	Listed Buildings
PP12	Improving Education and Skills
PPL1	Development and Flood Risk

PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL7	Archaeology
CP1	Sustainable Transport and Accessibility

Local Planning Guidance

*Essex Design Guide*

*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, 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.

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 (which applies until such time that the figures in the new Local Plan are adopted).

In addition, the actual need for housing (as set out in the emerging Local Plan) 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, as recently endorsed by the Local Plan Inspector. Therefore, in weighing the benefits of residential development against the harm, the Inspector's endorsement of the lower housing requirement figure is a strong material consideration which tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing to address the perceived shortfall – given that, against the Local Plan housing requirement there is, in fact, a surplus of supply as opposed to a shortfall.

## **5. Officer Appraisal (including Site Description and Proposal)**

### Site Description

The application site comprises a triangular area of open land situated on the east side of New Road behind the frontage properties and including an undeveloped plot of land through the frontage housing which provides the access into the proposed development from New Road. The site extends to 2.93 hectares in size and is situated within the Mistley Conservation Area.

There is residential development to the north and west of the site, which is divided from the wider countryside to the south by an access road/public footpath, Green Lane. To the north east is an area of grassland and wooded areas, comprised of the gardens associated with private dwellings and recreational areas, beyond which is the line of the railway.

The site is bounded by a hedge with small trees along the boundary with Green Lane, and by a hedge with large trees and groups of trees which border a pathway along the northeast boundary. To the northwest, the boundary is formed by the rear boundaries of the houses along New Road, with a mixture of timber fences, hedges and trees.

There are several heritage assets, or groups of heritage assets in the vicinity. The Lodge, listed Grade II, is located at the corner of New Road and Green Lane, in a garden of a residence, with one wall facing directly onto Green Lane and there are three Grade II Listed houses along New Road, 100 metres from the site. There are also three listed structures to the south of the proposal site, accessed off Clacton Road all Listed Grade II: Mistley Hall, Walled Garden and Gardener's Shed. To the east of the site are Old Hall and Garden Wall which are also Grade II Listed structures. Further to the south-east off Green Lane is Diary Cottage which contains a cluster of Listed Buildings.

### Proposal

This application seeks planning permission for the reserved matters following approval of 67 residential dwellings under previous planning permission 19/01956/OUT.

The proposal relates to the details of the proposed landscaping, scale and appearance of the development. Access and layout matters were previously approved under the outline approval.

As stated above the proposal is the development of 67 residential properties and an area of public open space fronting onto Green Lane to the south arranged around a new central access road and ancillary spur roads taken from New Road. The proposed housing mix is as follows:

#### Market Housing

2 bedroom dwellings - 3  
3 bedroom dwellings - 18  
4 bedroom dwellings - 26

Total 47

#### Social Housing

2 bedroom dwellings - 20

Total - 20

The scheme provides for a mix of dwelling sizes and types in line with the Council's adopted and emerging planning policies.

#### Appraisal

The principle of development has already been established through the granting of outline planning permission by the Planning Inspectorate via appeal and the approval of the subsequent S73 to revise the approved layout (Ref - 19/01956/OUT).

The reserved matters under consideration as part of this detailed application are:

- Landscaping;
- Scale; and
- Appearance.

#### Landscaping

In terms of soft landscaping the applicant has submitted a detailed and comprehensive planting scheme that will soften, enhance and partially screen the development. The planting is proposed at strategic points within the site and to the front of properties to assist in softening their appearance. The public open space to the south of the site would contain a comprehensive planting scheme that, along with the retention of the existing hedgerow and trees would partially screen and enhance views of the development from Green Lane.

With regard to the potential impact of the development on the trees and hedgerows on the application and on adjacent land the applicant provided an Arboricultural Implications Assessment (AIA) in support of planning application 17/0004/OUT. The report showed the extent of the constraint that the trees are on the development potential of the land. It identified trees that would need to be removed in order to facilitate the development. The information contained in the AIA is in accordance with BS5837 2012 Trees in relation to designs, demolition and construction: Recommendations.

There are several small trees in the gardens of the properties in New Road; some of which would need to be removed in order to facilitate the development proposal. The landscaping proposals include details of replacement tree planting that will mitigate the harm to the appearance of the public realm caused by the removal of these trees.

The agricultural field has strong boundary hedgerows and a single Sycamore close to the southern boundary. The hedgerows and Sycamore are shown as retained and measures for their physical protection are included in the AIA. None of the trees identified for removal make such a contribution to the appearance of the conservation area that they merit formal legal protection by means of a Tree Preservation Order (TPO).

In terms of surface finishes the development proposes a mix of tarmac to the main access road and pavements in conjunction with sympathetic block paving to the part of the shared surface areas, driveways and communal parking area for the flats. The pedestrian walkway through the open space would comprise of a permeable gravel finish. In terms of boundary treatments the plans show a mix of close boarded fencing, picket fences, brick walls and stock proof fencing. The siting of the various forms of boundary treatments has been considered carefully to enhance the overall appearance of the development. In this respect the picket fencing is sited to the front of the properties fronting onto Green Lane to enhance the aesthetics of the development in views from the public open space and the lane. Furthermore, brick walls are located in key locations within the development to act as sympathetic terminating features. The stock proof fencing is situated along the rear of the properties backing onto the footpath running along the NE boundary of the site.

In summary the information provided by the applicant is considered sufficient in terms of soft landscaping, tree protection, hard landscaping and boundary treatment.

#### Scale

A mix of dwelling types and sizes are proposed and will consist of two storeys, ranging from 2 bed properties up to 4 bed properties, and will be a mix of detached, semi-detached and apartment units. The proposals will provide a variety of building heights across the site which will add interest to the street scene. The scale and form of development in relation to its semi-rural location and juxtaposition with existing dwellings to the north and west is considered acceptable.

#### Appearance

With a mixed character of property type and style in the vicinity, and with the design of the proposal taking some cues from the Essex Design Guide, it is considered that the scheme would respond positively to local character, provide buildings that exhibit individual architectural quality and house-types with well-defined public and private spaces. The public realm through additional landscaping would also assist in creating a sense of place, and provide streets and spaces that are overlooked and active, promoting natural surveillance and inclusive access, as well as including parking facilities that are well integrated as part of the overall design.

There are 29 different house designs proposed. These include a mixture of detached houses, semi-detached houses and apartments, with eaves heights at two storeys and a variety of traditional pitched, hipped and barn hipped roofs. The designs are proposed within 5 character areas, each of which will exhibit the distinctive characteristics of the locality in terms of scale, grain and specific relationship of built form to landscape.

The properties would comprise of a mix of varying materials including red brick, white render, dark boarding along with the use of composite/natural slate and clay tiles to the roofs. This ensures that the development is varied and relates appropriately to the mixed character of the locality. Whilst a general concept plan showing the materials to be used has been provided a condition will be applied to secure the precise details (colour, style, name) of the final materials to be used in construction.

The proposed window designs include examples of sash windows and casement windows, which reflect window designs found in the Conservation Area. The proposed bay windows and double casement windows under gables are also traditional designs found within the area. Again precise details of the window materiality will be secured via condition.

The scale and massing of the new development has been designed to be a consistent height to the surrounding structures to the north and west and will not constitute an imposing or overbearing presence within the setting of the listed structures. They will be constructed using appropriate materials, sympathetic to the palette of both the houses along New Road and The Park and with the wider Conservation Area.

Overall it is considered that the proposed external design and form of dwellings is appropriate to its setting and provides a sufficient mix and variety of units to create a strong sense of place that is sympathetic to the Conservation Area setting. Accordingly, the proposal is considered acceptable with respect to paragraph 124 of the National Planning Policy Framework (which sets out the Government's commitment in terms of delivering a wide choice of high quality homes) and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) which sets out the council's commitment to supporting the aims and objectives of the NPPF in terms of Policies SD1, SD2 and SD5 (sustainable development) and SD9 (good quality design).

### Conditions

The outline approval included conditions securing details of; landscaping management plan, tree protection measures, lighting scheme, biodiversity management plan, construction method statement, parking provision prior to occupation, bus stop improvements, bin stores, an archaeology evaluation report and a SUDs scheme. These conditions remain in force.

Consequently, the only conditions required at this stage are to secure the implementation of the landscaping scheme and precise details of the materials to be used in construction.

### Legal Obligations

In this case, the obligations secured at outline stage comprised of an education contribution, affordable housing (20 units - as shown on the submitted tenure plan) and the RAMS contribution.

No further legal agreement is required at this stage.

### Other Considerations

Mistley Parish Council object further to this application due to the continuing issue of traffic congestion and road safety at the New Road, Clacton Road, Long Road and Trinity Road junction.

Officer Response - The principle of 67 dwellings being constructed on this site has been established via outline approval. Furthermore, the outline approval approved the access and highway impacts of the development. As such the impact upon traffic congestion in the local area has already been assessed and deemed acceptable.

3 letters of objection have been received outlining the following concerns;

- Not in keeping in this green gap/conservation area setting;
- There is already sufficient housing in the area;
- Query relating to flats frontage facing hedgerow (flats will face into the development providing an active frontage)
- Height of flats is overbearing (similar height to adjacent properties and in keeping with the scale of properties in the locality)
- Queries over the position of fencing, level of screening landscaping, the maintenance of the landscaping and tree protection measures (in response the maintenance of the landscaping areas and tree protection measures are secured via conditions on the outline approval. Furthermore, the position protective fencing along the footpath and level of planting/landscaping is considered to be acceptable and this is confirmed by the Council's Landscaping Officer).

## **6. Recommendation**

Approval

## **7. Conditions**

1 The development hereby permitted shall be carried out in accordance with the following approved plans:

- AA7718-2002 Rev24
- AA7718-2007 Rev05
- AA7718-2130 Rev02
- AA7718-2146 Rev02
- AA7718-2149 Rev02
- AA7718-2123 Rev01
- AA771860-2122 Rev01
- AA7718-2120 Rev02
- AA7260-2127 Rev01
- AA7718-2124 Rev01
- AA7718-2125 Rev03
- AA7718-2139 Rev02
- AA7718-2138 Rev01
- AA7718-2137 Rev01
- AA7718-2136 Rev01
- AA7718-2135 Rev01
- AA7718-2134 Rev01
- AA7718-2133 Rev01
- AA7718-2132 Rev01
- AA7718-2131 Rev01
- AA7718-2134 Rev01
- AA7718-2156 Rev01
- AA7718-2155 Rev01
- AA7718-2151 Rev01
- AA7718-2145 Rev02
- AA7718-2144 Rev01
- AA7718-2143 Rev01
- AA7718-2142 Rev02
- AA7718-2141 Rev01
- AA7718-2140 Rev01
- AA7718-2009 Rev05
- AA7718-2010 Rev04
- AA7718-2011 Rev05
- AA7718-2121 Rev02
- AA7718-2128 Rev04
- L1086 2.1 1000 P5
- L1086 2.1 1011 P5
- L1086 2.1 1012
- L1086 2.1 1013
- L1086 2.1 1014
- L1086 2.1 1020 P5
- L1086 2.1 1021 P5
- L1086 2.1 1022
- L1086 2.1 1023
- L1086 2.1 1024
- AA7718-2017 Rev01
- AA7718-2016 Rev02

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

- 2 All changes in ground levels, hard landscaping, planting, seeding or turfing shown the approved landscaping details drawing no's. L1086 2.1 1021 P5, L1086 2.1 1022, L1086 2.1 1023, L1086 2.1 1024 and L1086 2.1 1000 P5 shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure the implementation of the approved scheme and adequate maintenance of the landscaping for a period of five years in the interests of the character of the conservation area.

- 3 Notwithstanding the submitted materials concept plans, prior to the commencement of any above ground works precise details of the manufacturer and types and colours of the external facing and roofing materials (including windows/doors) to be used in construction shall have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - In the interests of visual amenity and to safeguard the sensitive conservation area setting.

## **8. *Informatics***

### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address these concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

<b>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</b>	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<b>Are there any third parties to be informed of the decision? If so, please specify:</b>	<input type="checkbox"/> YES	<input type="checkbox"/> NO