

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	23/07/2020
Planning Development Manager authorisation:	SCE	24.07.2020
Admin checks / despatch completed	CC	28.07.2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CD	28.07.2020

Application: 20/00477/FUL **Town / Parish:** Lawford Parish Council

Applicant: Mr & Mrs O Forster

Address: 57 Harwich Road Lawford Manningtree

Development: Removal of conditions 3, 4 and 9 of permission granted under application 14/01878/FUL (originally approved under 13/00876/FUL) to allow the retention of the existing dwelling and access.

1. Town / Parish Council

Lawford Parish Council No comments received.

2. Consultation Responses

ECC Highways Dept
09.06.2020

Please note that at present the highway authority is not making site visits due to the COVID-19 restrictions. The information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, such as the proposed block plan drawing no. OF/1, therefore:

The Highway Authority does not object to the proposals as submitted.

Informative:

1: 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

00/00291/FUL	Change of use of land for the display and sale of fencing, sheds, posts, trellis, plant pots, timber decking and associated items and sale and display of plants grown on the premises.	Refused	11.05.2000
97/00772/FUL	Change of use of land to garden	Withdrawn	13.08.1997

13/00876/FUL	Proposed replacement dwelling.	Approved	06.11.2013
14/01878/FUL	Variation of condition 2 of planning permission 13/00876/FUL to permit changes to the design of the proposed dwelling.	Approved	24.02.2015
15/01604/DISCON	Discharge of conditions 05 (landscaping) and 08 (construction method statement) of planning permission 14/01878/FUL.	Approved	03.12.2015

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG7 Residential Densities

HG9 Private Amenity Space

EN1 Landscape Character

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SPL1 Managing Growth

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, 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 amounts to 2.4 hectares and lies on the northern side of Harwich Road at the junction with Bargate Lane as part of the Foxash Estate. The site is outside of any Settlement Development Boundary for the area as established within the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

The site includes a two-storey, semi-detached, three-bedroom dwellinghouse with 1 no. front dormer and the re-development site adjacent approved under planning application 13/00876/FUL and amended under reference 14/01878/FUL.

Description of Proposal

The application seeks permission for the removal of conditions 3, 4 and 9 of permission granted under application 14/01878/FUL (originally approved under 13/00876/FUL) to allow the retention of the existing dwelling and access.

Assessment

The main considerations in this instance are;

- Planning History and Conditions;
- Principle of Residential Development (including Design, Layout and Impact);
- Residential Amenities;
- Access and Parking;
- Legal Obligation - Recreation Disturbance Mitigation; and,
- Representations.

Planning History and Conditions

Application 14/01878/FUL was approved (as a variation to approval 13/00876/FUL) subject to a number of conditions including the following;

Condition 3

Within 3 months of the hereby approved dwellinghouse being first occupied the existing dwellinghouse shown as 57 Harwich Road, Lawford, Essex on the submitted Location Plan shall be demolished and all materials resulting therefrom shall be cleared from the site.

Reason - To ensure that there is no net increase in the number of dwellings on this site.

Condition 4

Within 1 month of the existing dwelling house shown as 57 Harwich Road, Lawford, Essex on the submitted Location Plan being demolished any damage to the party wall with 58 Harwich Road shall be repaired using similar external materials to those currently used at 58 Harwich Road.

Reason - To protect the visual appearance of 58 Harwich Road.

Condition 9

Prior to the first occupation of the hereby approved dwelling house the existing vehicular access onto Harwich Road as shown on the submitted Location Plan shall be permanently closed, in a manner to have previously been agreed in writing with the Local Planning Authority.

Reason - To ensure the removal of and to preclude the creation of un-necessary points of traffic conflict in the highway and to prevent indiscriminate access and parking on the highway, in the interests of highway safety.

The application was originally considered under the provisions of Saved Policy HG12 of the adopted Tendring District Local Plan (2007) which allows for replacement dwellings outside the development boundary. The development was considered acceptable in regard to all design and impact considerations subject to the above conditions.

Since this approval there has been a material change in circumstances which is addressed in more detail under the 'Principle of Residential Development' heading below.

Principle of Residential Development

Of particular relevance in this instance is the planning and appeal history for land adjacent number 43 Harwich Road. Application 18/00649/FUL for the erection of 1 no., 1.5 storey dwelling was refused due to the location of the site being outside the defined development boundary and future occupants having to rely on their car to go about their everyday lives. The development was allowed under appeal reference APP/P1560/W/18/3218683 on 3rd May 2019 where the Inspector concluded that the location of bus stops in close proximity to the site and the frequency of bus service meant that sustainable travel other than by private car would be reasonably practicable in this location.

As a result of this appeal, outline planning permission (considering access) for the erection of 1 no. dwelling at number 56 Harwich Road (on the corner with Tile Barn Lane) was approved by officers under delegated powers on 2nd December 2019 under planning application reference number 19/01496/OUT. Numerous approvals in the locality have followed.

The principle of residential development in this location has been established by the above-mentioned appeal decision. For completeness, the principle of residential development in this locality will be assessed in full, referring to the appeal decision where relevant.

The site lies outside of any settlement development boundary as defined within both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.

The National Planning Policy Framework 2019 (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 writing this report 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. Whilst it is recognised that there would be conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site being sited outside the settlement development boundary, as stated above, in the context of the 5 year housing land supply paragraph 11 d) of the NPPF requires applications for housing development to be assessed on their merits, whether sites are allocated for development in the Local Plan or not and it is important to consider whether any circumstances outweigh this conflict. In line with Paragraph 8 of the National Planning Policy Framework (2019), achieving sustainable development means meeting an economic objective, a social objective and an environmental objective. The sustainability of the application site is therefore of particular importance.

Economic Objective

The proposal would retain the economic benefits to the local area through local spending by the existing and future occupiers. This echoes the conclusions made by the Inspector within paragraph 14 of the appeal decision (Appeal Ref: APP/P1560/W/18/3218683).

Social Objective

Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations therefore being in line with the aims of the aforementioned paragraph 8 of the NPPF. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.

The site is almost equidistant from the Ardleigh and Lawford settlements. Ardleigh is identified as a village within saved Policy QL1 of the adopted Tendring District Local Plan 2007 and is defined as a Smaller Rural Settlement within Policy SPL1 of the emerging Tendring District Local Plan Publication Draft (2017). Lawford is defined as a Town within the saved Policy QL1 of the adopted Tendring District Local Plan 2007 and is defined as a Smaller Urban Settlement in recognition of the large range of local services offered.

There are bus stops within approximately 0.6 miles of the site with services to Ardleigh and Lawford. This distance is not particularly far and accessible by footways along Harwich Road (A137) which is the principal road linking Ardleigh, Manningtree, Mistley and Lawford with Colchester. It is served by three bus routes with a frequent service in each direction each day, from early in the morning to late at night. Therefore, a bus journey to Lawford to utilise the large range of services there would be relatively straight-forward. Sustainable travel other than by private car would be reasonably practicable in this case. The proposal, being situated outside defined settlement development boundaries would be in conflict with Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which sets out the spatial strategy for Tendring. However, this policy is several years beyond its defined period of implementation and out-of-date. There would also be no harm caused by reason of the proposal's location. Therefore, the proposal's conflict with this policy must be given very limited

weight. This echoes the conclusions made by the Inspector within paragraph 14 of the appeal decision (Appeal Ref: APP/P1560/W/18/3218683).

Environmental Objective

As mentioned above, paragraph 8 of the 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 including making effective use of land. Paragraph 127 of the NPPF states that developments should function well, should add to the overall quality of the area, are visually attractive as a result of good architecture and layout and are sympathetic to local character. Saved Policies QL9, QL10 and QL11 of the adopted Tendring District Local Plan (2007) 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 Emerging Plan.

The retention of the existing would contribute to the preservation of the character of the area. The dwelling sits comfortably alongside the new proposed with ample separation distance as to not appear cramped.

Residential Amenities

Paragraph 127 of the NPPF 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 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.

The retention of the existing dwelling will clearly have a negligible impact on the adjoining property, in fact the retention of the dwelling will result in less disturbance and disruption to the existing neighbouring residents.

The separation distance between the new and existing dwellings will ensure that no material loss of outlook, loss of light or overlooking will occur to existing or future occupants.

Policy HG9 of the adopted Tendring Local Plan 2007 states that a 3 bedroom dwelling should be served by a minimum of 100 square metres of private amenity space. The plans demonstrate that this level of amenity space can be provided for both the new dwelling and the dwelling to be retained.

Access and Parking

Paragraph 108 of the NPPF 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. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The Council's current Adopted Parking Standards require that for dwellings with 3 bedrooms a minimum of 2 parking spaces be provided.

The removal of condition 9 allows for the existing access to the dwelling to be retained with clear visibility possible in both directions and no conflict with the new access and new dwelling. The development provides parking, space for turning and visitor parking of an appropriate level to serve the existing and new dwelling.

Essex County Council as the Highway Authority has been consulted on the application and raise no objection.

Legal Obligation - Recreation Disturbance Mitigation

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) being approximately 2500 metres from the Stour and Orwell Estuaries Ramsar and SPA. New housing development within the Zoi would be likely to increase the number of recreational visitors to the Stour and Orwell Estuaries 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 unilateral undertaking has been completed to secure this legal obligation. This will 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

No comments have been received from Lawford Parish Council.

No letters of representation or objection have been received.

Conclusion

In the absence of any material harm resulting from the retention of the existing dwelling, the application is recommended for approval. Where relevant, the condition of the original/amended application will be carried forward.

6. Recommendation

Approval - Full

7. Conditions

- 1 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plan numbers OF/1 Rev/ A, OF/2 and OF/4.

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

- 2 Any trees or shrubs shown on the landscaping details approved under 15/01604/DISCON 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 protect the landscape character of the area and shield the approved dwelling from Harwich Road.

- 3 The vehicular turning facility for motor cars shown in drawing number PP813-10B as approved within planning permission reference 13/00876/FUL shall be maintained free from obstruction at all times for that sole purpose.

Reason - To ensure that vehicles can enter and exit the site in a forward gear to the benefit of highway safety.

- 4 The development shall be carried out in accordance with the Construction Method Statement approved under application 15/01604/DISCON.

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur, 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.

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.