

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	13 <sup>th</sup> July 2020
Planning Development Manager authorisation:	SCE	15.07.20
Admin checks / despatch completed	CC	16.07.2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	BB	16/07/2020

**Application:** 20/00372/FUL **Town / Parish:** Frinton & Walton Town Council

**Applicant:** Mr Keston

**Address:** Oak Cottage Main Road Great Holland

**Development:** Proposed demolition of existing dwelling and erection of 2 detached chalet bungalows.

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

No comments received.

### **2. Consultation Responses**

UU Open Spaces  
20.05.2020

There is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton & Kirby and Great Holland

There is only one play area in Great Holland located on the corner of Pork Lane and Main Road, approximately 0.2 miles from the proposed development.

This play area has recently been refurbished but to cope with any additional development this play area will still be in need of continued improvements. A contribution is both relevant and justified to this application. Any contribution will be used at the play area in Pork Lane.

ECC Highways Dept  
23.04.2020

The information that was submitted in association with the application has been fully considered by the Highway Authority. Please note a site visit was not been undertaken due to the current COVID-19 restrictions; however, I am familiar with this area and the observations below are based on submitted material, google earth image dated April 2019, therefore, from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions.

### **3. Planning History**

20/00372/FUL	Proposed demolition of existing dwelling and erection of 2 detached chalet bungalows.	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

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

COM6 Provision of Recreational Open Space for New Residential Development

HG1 Housing Provision

HG9 Private Amenity Space

LP1 Housing Supply

TR1A Development Affecting Highways

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

PPL4 Biodiversity and Geodiversity

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 plot is currently occupied by an early 20<sup>th</sup> century detached dwelling which has an oblique relationship to the road. The dwelling is set some way back within the plot which provides

extensive off-street parking. To the rear the property has views over farmland. The plot is around 28m deep and 20m.

### Description of Proposal

The application proposes the construction of two detached chalet bungalows following the demolition of the existing dwelling. The two dwelling would be sited equidistant from the side boundaries and each other. The dwellings are handed and each dwelling would be roughly 7.5m wide and 9m deep. The roof is part gabled, part hipped ends with the main eaves being at 2.4m and the gable reaching to 5m before hipping; the ridge height is approximately 7.8m.

### Assessment

The main planning considerations are:

- Principle of Development;
- Layout, Scale and Appearance;
- Neighbouring Amenities;
- Highway Considerations;
- Biodiversity;
- Financial Contributions - RAMS;
- Financial Contributions - COM6;
- Representations; and,
- Other Considerations.

### Principle of Development

The site is located within the Development Boundary therefore there is no principle objection to the proposal, subject to the detailed considerations discussed below.

### Layout, Scale and Appearance

The Government attach great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design.

Saved Policies QL9, QL10 and QL11 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Emerging Policy SP1 reflects these considerations.

The siting of the dwellings, being not only equidistant from the plot's boundaries but also each other makes an effective use of the space available within the plot. The scale of the dwellings proposed entirely accords not only within the individual plot but also with the scale of wider development in the area. Existing dwellings in the locale are of mixed scale and varied external appearance and there is no local vernacular. The dwellings are of an attractive external appearance with features such as the roof pitch of the porch matching that of the main dwelling and having handed side dormers which break up the roof expanse. It is noted from the application that external materials are to be agreed; in order that a high-quality development ensues – the submission of details of the external finishes will be secured by way of a planning condition.

### Amenities of Existing & Future Occupiers

The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities

of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

In regards to privacy - the existing dwelling is located close to the north boundary (adjacent the Post Office) and, in conjunction with its oblique siting within the plot, has rear-facing windows which have a degree of overlooking across the garden of this adjacent property. Likewise with the south elevation, this also has first floor side facing windows which face towards the garden of Heidi Cottage. The plans propose side dormers but as they serve bathroom(s) a condition will be attached to any forthcoming permission requiring that the windows are obscurely glazed and permanently fixed shut. The new dwellings have rear facing windows but, in the context of the existing development on the site – their siting does not materially damage the privacy of occupiers of nearby properties any greater than the existing. In regards to daylight – the dwellings are chalet bungalows and any roof bulk of the dwellings is limited through its part gabled, part hipped design and the development will not have a materially damaging on the daylight or other amenities of occupiers of nearby properties.

Different dwelling sizes and types provide accommodation for individuals and families with a wide range of expectations and need for private amenity space. "Private amenity space" comprises a private outdoor sitting area not overlooked by adjacent or opposite living rooms or outdoor sitting areas. It will therefore not necessarily always amount to the entire rear garden. Apart from its private recreation function, private amenity space is also important in achieving well laid out development.

Private amenity space shall be provided to new dwellings in accordance with the following standards:- a three or more bedroom house - a minimum of 100 square metres; two bedroom house - a minimum of 75 square metres; one bedroom house - a minimum of 50 square metres. In accordance with the policy requiring the area to not be overlooked by adjacent or opposite living rooms or outdoor sitting areas, the proposed dwellings would have sufficient private amenity space available.

Overall the proposal is considered to secure a good standard of amenity for future occupants of the proposed dwelling.

### Highways

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 Parking Standards require that for dwellings with 3 bedrooms a minimum of 2 parking spaces be provided per unit. The preferred bay size for cars is 5.5 metres by 2.9 metres and the minimum bay size is 5 metres by 2.5 metres.

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions.

### Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

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 contribution is secured by unilateral undertaking.

The application scheme proposes two new dwellings on a site that lies within the Zone of Influence (Zol) being approximately 3,837.9 meters from Hamford Water SPA and Ramsar. Since the

development is for two dwellings only, the number of additional recreational visitors would be limited and the likely effects on Hamford Water from the proposed development alone may not be significant. However, new housing development within the ZOI would be likely to increase the number of recreational visitors to Hamford Water; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A unilateral undertaking has been prepared 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.

### Public Open 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.

14.12 hectares of equipped play in Frinton, Walton & Kirby and Great Holland.

This play area has recently been refurbished but to cope with any additional development this play area will still be in need of continued improvements. A contribution is both relevant and justified to this application. Any contribution will be used at the play area in Pork Lane.

### Representations

No contributions have been received in response to either the site notice or letters sent to occupiers of adjoining properties.

### Other Material Considerations

There are no other material considerations which exist.

### Conclusion

For the reasons set out above, the proposal is considered to represent a sustainable form of development in a location supported by national and local plan policy that will not result in any material environmental or residential harm that warrants refusal of planning permission.

## **6. Recommendation**

Approval - Full

## **7. Conditions / Reasons for Refusal**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:- KDC-02, revision A and KDC-03, revision A received 10th March 2020.

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

- 3 Construction of any buildings shall not be commenced until a schedule of the types and colour of the materials to be used in the external finishes has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.

Reason - To ensure that the development does not prejudice the appearance of the locality.

- 4 Prior to occupation of the development, the shared access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason - To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety.

- 5 Prior to occupation of the development, the internal layout shall be provided in principal with drawing number KDC-02 Rev. A

Reason - To ensure that vehicles using the revised internal layout do so in a controlled manner, in the interests of highway safety.

- 6 As per drawing no. KOC-02 Rev. A (and prior to occupation of the development) a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority 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.

- 7 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.

- 8 Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Footway / Highway Boundary and provided with an appropriate dropped kerb crossing of the footway/verge.

Reason - To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

- 9 Any part of the existing access/ drop kerb at shown on the site layout plan that is superseded by the new vehicle access shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / kerbing immediately the proposed new access is brought into first beneficial use.

Reason - To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety.

10 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.

11 No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan 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 underbody washing facilities

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

12 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.

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

Reason - To ensure appropriate cycle / powered two-wheeler parking is provided in the interest of highway safety and amenity.

14 Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator free of charge).

Reason - In the interests of reducing the need to travel by car and promoting sustainable development and transport.

15 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no enlargement of, or additional windows, doors, rooflights, or dormer windows, as permitted by Classes A, B and C of Part 1 of Schedule 2, other than those indicated on the approved plans shall be constructed in on the north roof slope of Plot 1 or the south roof slope of Plot 2 hereby permitted without first obtaining planning permission from the local planning authority. Irrespective of the details shown on drawing KDC-02A, the dormer window(s) on the north roof slope of Plot 1 and the south roof slope of Plot 2 shall be glazed with obscure glass and shall be so maintained at all times.

Reason - In the interests of residential amenity and in order to secure the privacy of adjoining occupiers.

## **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.

**Legal Agreement Informative - Public Open Space**

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: public open space in accordance with saved Policy COM6.

On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

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](mailto:development.management@essexhighways.org) or by post to:

SMO1 - Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester  
CO4 9YQ

It is noted that there is an existing bus stop/ shelter located outside the front of the plot. Consideration will need to be made to the bus stop when the new vehicle access is to be constructed not to impact or obstruct the bus stop.

<b>Are there any letters to be sent to applicant / agent with the decision?</b>		NO
<b>Are there any third parties to be informed of the decision?</b>		NO