

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AN	27/08/2020
Planning Development Manager authorisation:	TF	27/08/2020
Admin checks / despatch completed	DB	27.08.20
Technician Final Checks/ Scanned / LC Notified / UU Emails:	BB	27/08/2020

Application: 20/01021/NMA **Town / Parish:** Ardleigh Parish Council

Applicant: Mrs Sarah Cornwell - Bellway Homes (Essex) Ltd

Address: Land to The South of Bromley Road Ardleigh

Development: Non material amendment for re-siting of Local Equipped Area for Play approximately 10 metres to the south of its original position approved under 19/01392/DETAIL and minor amendment to route of footpath through public open space adjacent to east and south of sub-station.

1. Town / Parish Council**2. Consultation Responses****3. Planning History**

17/30027/PREAPP	Erection of approximately 150 dwellings, with public open space, landscaping and vehicular access point off of Bromley Road.	Refused	03.04.2017
17/00362/OUT	Outline application for 5 detached two storey dwellings.	Refused	20.06.2017
17/00859/OUT	Erection of up to 145 dwellings, the removal of prefabricated livery stables and the provision of public open space, landscaping and sustainable drainage systems and vehicular access point from Bromley Road. All matters reserved except for means of access.	Refused	25.08.2017
19/30023/PREAPP	Erection of up to 145 dwellings, the removal of prefabricated livery stables and the provision of public open space, landscaping and sustainable drainage systems and vehicular access point from Bromley Road.		10.11.2019
19/01197/DISCON	Discharge of condition 12	Approved	19.09.2019

(archaeology) for application 17/00859/OUT allowed at appeal APP/P1560/W/17/3185776.

19/01392/DETAIL	Reserved matters for details of appearance, landscaping, layout and scale; and discharge of conditions 3 (landscape specification), 5 (levels), and 6 (lighting) of outline planning permission 17/00859/OUT for the erection of 145 dwellings and associated development.	Approved	05.05.2020
19/01411/DISCON	Discharge of conditions 4 (Tree Protection), 7 (CMS), 8 (Biodiversity), 10 (Site Access), 11 (off-site highway works), 13 (Drainage) and 14 (Maintenance Plan) for application 17/00859/OUT allowed at appeal APP/P1560/W/17/3185776.	Approved	15.06.2020
20/00972/DISCON	Discharge of conditions 2 (boundary treatments), 4 (badger license), 7 (materials), 9 (cycle parking) and 14 (SANGS and landscape management plan) of approved application 19/01392/DETAIL.	Current	

4. Relevant Policies / Government Guidance

n/a

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)

From 1st October 2009 Section 96A of the Town and Country Planning Act came into force allowing a Local Planning Authority, on application, to make a change to any planning permission if it is satisfied that the amendment proposed is non-material.

The key test as to the acceptability of an application for a non-material change is whether the change is material to any development plan policy. If the answer is 'no', three further tests should be applied:

1. Is the proposed change significant in terms of its scale (magnitude, degree etc.), in relation to the original approval?
2. Would the proposed change result in a detrimental impact either visually or in terms of amenity?

3. Would the interests of any third party or body who participated in or were informed of the original decision be disadvantaged in any way?

Appraisal

In this instance the proposed amendments seek a non material amendment to reserved matters permission 19/01392/DETAIL to incorporate the following changes;

- Relocate the play area as approved 10 metres south
- Minor amendment to route of footpath through public open space adjacent to east and south of sub-station.

In this instance the changes proposed do not represent a significant change from the existing approval. The changes relate solely to the relocation of the play area, in the same form as approved, 10 metres south to move it outside of the exclusion zone of the substation, and associated changes to the footpath accessing the play area. The relocation remains within the central open space area of the site isolated from any existing dwellings and does not affect any existing trees or mature vegetation. The approved dwellings it is closest to have not yet commenced construction (no dwellings have been commenced yet) so future purchasers would be aware of the change before purchase so are not disadvantaged in any way. The proposal does not therefore represent material changes to the scale, degree and magnitude of the development. There would not be a detrimental impact in respect of visual amenity and no third party would be disadvantaged in any way from the proposed amendments.

Taking all the relevant issues into account it is considered that the alterations proposed to reserved matters permission 19/01392/DETAIL will not result in any significant change to the development overall. On this basis, the application complies with national and local planning policies.

Conclusion

In this instance it is considered the amendments being sought are minor and are therefore acceptable as a non-material amendment to the approved plans attached to 19/01392/DETAIL.

6. Recommendation

Approval Non Material Amendment

7. Conditions / Reasons for Refusal

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

Detailed Play Area JBA 19/281-09 Rev A
Site Layout Plan 905-PL-02 Rev U
Landscape Framework Proposals PR 159 01 Rev R
Boundary Treatment Layout Plan 905-PL-08 Rev L
Unit Mix Plan 905-PL-01 Rev P

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

8. Informatives

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO
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Are there any third parties to be informed of the decision? If so, please specify:	YES	NO