

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	JD	08/09/2020
Planning Development Manager authorisation:	AN	08/09/2020
Admin checks / despatch completed	CC	08/09/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CD	08/09/2020

Application: 20/00645/FUL **Town / Parish:** Thorpe Le Soken Parish Council

Applicant: Messers R.A, T.R, D.R, A.I Sargeant

Address: Land Adj Thorpe Cross Lodge 26 Frinton Road Thorpe Le Soken

Development: Erection of 4no. holiday caravans.

1. **Town / Parish Council**

Mrs Thorpe Le Soken
Parish Council
11.08.2020

The parish council wish to object to the application on the grounds of road safety and overcrowding of the site that is not in keeping with the surrounding area.

The site itself was an area of open countryside with a public right of way running through it, situated amongst a row of 6 detached bungalows, until it was cut and cleared last year. It has no existing, authorised vehicular access, nor has there ever been. Vehicular access was created in 2019 (without planning consent) to facilitate the 2 static caravans that were installed on the adjacent site last year. This involved back filling part of the ditch to widen the access from the highway to the public footpath. Frinton road (B1033) is an exceptionally busy road, which takes traffic from the village of Thorpe Le Soken into Kirby Le Soken, Kirby Cross, Frinton and Walton on the Naze. During summer months, traffic burden along this road increases significantly as holiday makers travel to and from the coastal towns of Frinton and Walton, making access onto this road even more dangerous. Given the intended use is for holiday homes, which will be used when traffic on the road is at its peak, the requirement for access of up to 12 vehicles on to the site via the unauthorised access on the public footpath is even more concerning. The 2 existing static caravans are not in keeping with the local area and to have a further 4, creating the appearance of a caravan park would be even more unsympathetic to the surrounding area and would be overcrowding of a small site.

v Point 13 of the application form states that the site is served by mains sewerage, however, there is no existing mains connections for any services, requiring the installation of electricity and water and a septic tank to manage foul water as there is no mains sewerage along this road. This will require the site to have adequate access and turning space for the tankers that are required to empty septic tanks, however no provision has been made for this.

2. Consultation Responses

ECC Highways Dept
24.08.2020

The Highway Authority raises an objection to the above application for the following reasons:

As far as can be determined from the submitted plans the applicants fails to demonstrate the provision of a visibility splay commensurate with the current standards between users of the access and those already within the highway which will constitute an unacceptable degree of hazard and danger to pedestrians and motorists contrary to highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

The proposal would lead to the intensification of vehicular use of Public Footpath No. 14 (Thorpe Le Soken) which will constitute a danger to pedestrians and motorists contrary to highway safety and Policy DM 1 and 11 of the Highway Authority's Development Management Policies February 2011.

Tree & Landscape Officer
30.07.2020

The application site is divided into two sections by an existing Public Right of Way (PROW). There is an existing vehicular access to the land which it appears will continue to be used

The land to the south of the PROW is set to grass and does not contain any trees or other significant vegetation.

The land to the north is currently occupied by two static caravans set in the positions shown on the Proposed Site Layout Plan.

On the boundary on the northern part of the application site with the boundary there is a group of small trees comprising of primarily Elm but with some Hawthorn. There is a single specimen Hawthorn adjacent to the existing static caravan closest to the PROW. None of the existing trees are threatened with removal as part of the development proposal.

If planning permission were to be granted then a condition should be attached to secure details of the indicative soft landscaping shown on the Proposed Site Layout Plan

3. Planning History

91/01235/FUL	Protective garden wall.	Refused	11.12.1991
92/00169/FUL	Retention of front boundary wall and side fencing (resubmission of application TEN/91/1235)	Refused	31.03.1992
92/01252/FUL	(Thorpe Cross Lodge, 26 Frinton Road, Thorpe le Soken) Retention of brick store	Approved	14.12.1992
17/01172/OUT	Outline planning application for 4 detached dwellings.	Refused	11.09.2017

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

QL7 Rural Regeneration

QL9 Design of New Development

QL11 Environmental Impacts and Compatibility of Uses

ER16 Tourism and Leisure Uses

ER20 Occupancy Timescales

EN1 Landscape Character

TR1A Development Affecting Highways

TR3A Provision for Walking

TR4 Safeguarding and Improving Public Rights of Way

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

SP6 Place Shaping Principles

SPL3 Sustainable Design

PP10 Camping and Touring Caravan Sites

PP13 The Rural Economy

PPL3 The Rural Landscape

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 (including Site Description and Proposal)

Site Description

The site is a parcel of land on the south western side of Frinton Road, part of the B1033, between Thorpe-le-Soken to the northwest and Kirby Cross and Frinton to the east. The site has an area of 0.32 hectares.

The site is opposite the junction of Frinton Road with Damants Farm Lane.

The application site is rectangular in shape, set to grass with no other trees or vegetation present with a shallow ditch along the frontage. To the south east of the site are 3 detached dwellings fronting Frinton Road. To the north of the site is a public footpath running along the full length of the site boundary. To the north are 3 detached dwellings also in a linear arrangement fronting Frinton Road.

The area is semi-rural in character and the rear and opposite the site are open fields and dividing hedgerows.

The site is outside any Development Boundary.

Proposal

Erection of 4no. holiday caravans.

The plan submitted shows four static caravans, to the south of a footpath across the application site, each with two car parking spaces associated with it and a garden area for each caravan. The caravans would be on a hardstanding which extends to form the parking and vehicular access path. The plan also shows two caravans already in place to the north of the footpath.

Appraisal

Although not in an especially sustainable location, this is often the case with a leisure use which would require an extensive area of land and as such the proposal is considered acceptable with regard to Policies QL1 and QL2. The proposal may have some benefit with regard to rural regeneration in principle though c) of Policy QL7 requires development to protect or enhance landscape character and biodiversity. Landscape character would be harmed, as discussed below, and there is no evidence that the proposal would assist biodiversity.

The proposal is for a tourism and leisure use and the principal consideration is how the proposal relates to Policy ER16, Tourism and Leisure Uses, of the adopted Local Plan.

Policy ER16 states that proposals for tourism and leisure uses will be permitted provided that a number of criteria are met. The first of these is that the development is accessible to all potential visitors and users. Parking would be provided in proximity to the caravans and there is a bus service along Frinton Road. The proposal is considered acceptable with regard to the first criterion of Policy ER16.

The second criterion is that there should be suitable vehicular and public transport access to the site and parking provision. Proposals should be located close to the main road network and link to other public rights of way wherever possible. The proposal fails to meet the requirements of the second criterion in that there is not suitable vehicular access. The local highway authority has written to object to the proposal.

The third criterion is that the type of use proposed should not cause undue disturbance by reason of noise. The proposal would result in vehicular activity at the rear of the site, beyond a line level with the rear elevation of the dwelling to the south. Although noise disturbance would be limited, it is considered that there would be some noise disturbance to the residents of the dwelling to the south when using the rear garden. This aspect of the proposal would be contrary to the third criterion of Policy ER16 and contrary to the second criterion of Policy QL11.

The fourth criterion is that there should not be an adverse effect on agricultural holdings and the proposal should not result in an irreversible loss of high quality agricultural land. A Planning, Design and Access Statement submitted as part of the application documentation states, at paragraph 5.4, that there would not be an adverse effect on agricultural holdings and the proposal would not result in an irreversible loss of high quality agricultural land. Nothing has been found to refute this and accordingly the proposal is considered acceptable with regard to the fourth criterion of Policy ER16.

The fifth criterion is that, where appropriate, opportunities are taken to improve damaged and despoiled landscapes and enhance the landscape character of the area. The application plan indicates proposed new planting/hedgerow. The trees and landscaping officer recommends that a landscaping condition be imposed to any approval to require a soft landscaping scheme. The proposal is considered acceptable with regard to the fifth criterion of Policy ER16.

However, with regard to Policy EN1, it is considered that the formation of a vehicular access would be the creation of a feature which would urbanise the appearance of the site. Policy EN1 states that the quality of the district's landscape and its distinctive local character will be protected. Whilst the placement of the caravans could be screened from the vehicular highway, Frinton Road, the caravans would be non-agricultural development which users of the public footpath would be aware of. The design shows planting to both sides of most of the public footpath across the site but this would create a "tunnel-like" experience before entering onto a hard surfaced area for vehicular circulation.

Policy TR4, Safeguarding and Improving Public Rights of Way, requires development to accommodate the definitive alignment of the path. The plan shows that the end of the path, just before reaching Frinton Road, would effectively be truncated by vehicular circulation space. Whilst the line of the footpath would be retained, the quality of the path would be diminished by being changed from an open path across a corner of a field to being an enclosed, hemmed in route through the middle of an area of caravans. It is considered that effectively the proposal would not safeguard or improve a public right of way and as such is contrary to Policy TR4.

Policy QL9 requires all new development to make a positive contribution to the quality of the local environment and protect or enhance local character. A list of requirements are set out in the text of Policy QL9, one of which (iii) is that the development respects or enhances open spaces and other locally important features. The proposal would at best hide away a caravan site with loss of an open agricultural field. The vehicular access would have to be constructed to modern standards and would have a wholly different character to that of a farm field gate. It seems likely that signage would be required at the access. Whilst the caravan use would be at a limited scale, its design appears to be efficient to the point of beginning to appear regimented with one caravan space filling a smaller space at the front of the site and three caravans laid out in line in a somewhat uniform manner to the rear of the site. The proposal is considered to be contrary to Policy QL9 and fails to represent good design as required by paragraph 124 of the National Planning Policy Framework.

The local highway authority, Essex County Council, has been consulted and a written response received raising a formal objection due to inadequate visibility splays and the intensification of vehicular use of a public footpath.

The proposal would be materially detrimental to highway safety. As such the proposal is contrary to Policy TR1a and to criterion (i) of Policy QL10 of the adopted Local Plan.

The application was advertised by a site notice and letters were sent to occupiers of 3 neighbouring properties. A written objection has been received from a member of the public making points summarised as follows:

- although the application was rejected due to a number of factors when the owners applied for 4 dwellings in 2017, surely the same should apply for four static caravans.
- very concerned about road safety, sanitation and overcrowding of such a small plot.

The Parish Council has written in to object.

Councillor Land requested that the application be presented to Committee if the recommendation were one of approval.

6. **Recommendation**

Refusal.

7. Conditions / Reasons for Refusal

1. Paragraph 108, at b), of the National Planning Policy Framework 2019 (NPPF) requires that in assessing specific applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users. Policy ER16 (b) of the Adopted Tendring District Local Plan states that proposals for tourism and leisure users will be permitted provided that there is suitable vehicular access to the site. Policy QL10 (i) of the Adopted Tendring District Local Plan requires that access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. Policy TR1a of the Adopted Tendring District Local Plan states that proposals for development affecting highways will be considered in relation to the road hierarchy to reducing and preventing hazards and inconvenience to traffic. Policy CP2 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) states that proposals which would have any adverse transport impacts will not be granted planning permission unless these are able to be resolved.

As far as can be determined from the submitted plans the applicant fails to demonstrate the provision of a visibility splay, commensurate with the current standards, between users of the access and those already within the highway, which would constitute an unacceptable degree of hazard and danger to pedestrians and motorists.

The proposal would lead to the intensification of vehicular use of Public Footpath No. 14 (Thorpe Le Soken) which will constitute a danger to pedestrians and motorists contrary to highway safety. The lack of such visibility and intensification of a vehicular use of a footpath would result in an unacceptable degree of hazard to all road users and users of the public footpath to the detriment of highway safety. As such the proposal is contrary to the recommended minimum standards for highway safety and contrary to Policies ER16 (b), QL10 (i) and TR1a of the adopted Local Plan and Policy CP2 of the emerging Local Plan.

2. Paragraph 8 of the National Planning Policy Framework 2019 (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 environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character, and reflect the identity of local surroundings. Saved Policy QL9, QL11 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake.

The proposal; by necessitating a vehicular carriageway and junction and effectively enclosing a public footpath and creating structures in the setting of a footpath to replace open countryside; would result in significant harm to the character and appearance of the area by urbanising the site and its setting. As such the proposal is contrary to Policies TR4, QL9 (iii), QL11 and EN1 of the adopted Tendring District Local Plan; Policies SPL 3 and PPL 3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017); and, the provisions of the National Planning Policy Framework.

3. Policy ER16 c) of the Adopted Tendring District Local Plan requires that a tourism and leisure use should not cause undue disturbance by reason of noise. Policy QL11 (ii) of the Adopted Tendring District Local Plan requires that development should not have a materially impact on any amenity of occupiers of nearby properties.

The proposal, by creating activity at land adjoining a rear garden to a residential property, would create a material detriment to residential amenity contrary to Policies ER16 and QL11 of the adopted Tendring District Local Plan and Policy SPL 3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reasons for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.

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