

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	1 st Oct 2020
Planning Development Manager authorisation:	TF	02/10/2020
Admin checks / despatch completed	DB	02/10/20
Technician Final Checks/ Scanned / LC Notified / UU Emails:	PW	02/10/20

Application: 20/01013/FUL **Town / Parish:** Lawford Parish Council

Applicant: Mr and Mrs Cathro

Address: Cedars Wignall Street Lawford

Development: Proposed erection of a detached bungalow with parking and vehicular access following demolition of existing garage.

1. Town / Parish Council

Mrs Peachey Lawford
Parish Council Council agrees this is overdevelopment

2. Consultation Responses

ECC Highways Dept A site visit was undertaken, and the observations below are also based on desk top study, submitted material and google earth image dated March 2019.

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

UU Open Spaces
03.09.2020 Response from Public Realm
Open Space & Play

There is currently a deficit of -3.44 hectares of equipped play/open space in Lawford.

Recommendation

No contribution is being requested from Open Spaces on this occasion. This development will not have a significant impact on the current deficit. However should there be further development a contribution will become necessary.

Building Control and
Access Officer
17.08.2020 No comments at this time

Waste Management
28.08.2020 No comments.

Tree & Landscape Officer
19.08.2020 The application site currently forms part of the residential curtilage of the host property.

The development would necessitate to the removal of a small culinary

Pear close to the southern elevation of the proposed dwelling and a section of the Yew hedge on the boundary with the highway.

The loss of the Pear will not have an adverse impact on the public realm and the amenity and screening value of the boundary hedge could be relatively easily replicated by replacement planting secured by a planning condition. Additionally the amenities of the locality would be improved by the planting of two single trees in the grassed areas either side of the proposed new, widened vehicular access to the land.

Should planning permission be likely to be granted then a condition should be attached to secure replacement hedging for any part of the existing hedge that has to be removed to facilitate the development proposal and to plant two new trees in the areas described above.

3. Planning History

05/01001/FUL	Erection of log cabin for use as family garden room/study	Approved	11.08.2005
12/00327/FUL	Single storey rear extension.	Approved	23.05.2012
20/01013/FUL	Proposed erection of a detached bungalow with parking and vehicular access following demolition of existing garage.	Current	

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

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

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

Site Description

The property is a detached single storey bungalow situated on a plot in the region of 1268sqm and, being over 11m wide, is roughly twice the width of other plots in the locale. The existing dwelling is set almost 10m back from the highway of Wignall Street whereas the other properties situated along this length of the street are typically in the region of 6m back from the road frontage. The nearest neighbours are 'Tullimarina' to the east which has the appearance of a chalet-bungalow to the front but increasing to a two storey dwelling to the rear; and 'Eugene House', also a two storey dwelling, to the west.

The site is quite well screened along some of its boundaries by mature hedgerow and there are trees within the curtilage of the site. None of these trees are protected and therefore have no value in being retained.

Description of Proposal

This application proposes the erection of a new bungalow on part of the large side garden on the eastern side of the existing bungalow following the demolition of the existing garage. Associated parking facilities will be provided for both the existing and new properties served by an enlarged vehicular access which will be provided with suitable visibility splays.

The dwelling has uniform eaves which are in the region of 2.5m, ridges vary between 3.8m and 4.9m. The higher ridge is approximately 4.7m from both side boundaries. Its longest depth is 15m – this is to the west; the elevation to the east is marginally shorter at 14.5m. The resultant dwelling would have three bedrooms and served by two parking spaces; the original dwelling would also have two parking spaces.

Assessment

The main planning considerations are:

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

1. 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.

2. 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.

Given that the host property is set well back from the general prevailing building line along this section of Wignall Street, it is proposed that the front of the new bungalow will be set about midway between the front of the existing property to the east and the front of the host property with the form/footprint of the proposed bungalow set such that there is a smooth transition between the respective properties to ensure an acceptable visual impact on the street scene.

The (new) sub-divided plot would be approximately 9.6m wide, the original dwelling would be 15.6m wide; the infilling of the application site is not considered to unduly affect the character of the locality and does not deliver a cramped appearance. On this south side of Wignall Street the dwellings are typically two-storey, however the application site and 'The Conifers' are both single-storey – the north side of the road is again typically two-storey; but within close proximity of the application site is a further single-storey bungalow.

There isn't an established palette in the area with marked variations in brick colour being prevalent; it is noted that the proposed appearance would have a predominantly red brick finish with concrete tiles to the roof to reflect that which dominates the character of the immediate area.

3. 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).

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. When a proposal results from the sub-division of a plot; both plots have a requirement to meet the standards. In accordance with the policy requiring the area to not be overlooked by adjacent or opposite living rooms or outdoor sitting areas, the proposed dwelling would have almost 150sqm of private amenity space and the original dwelling would have almost 350sqm of private amenity space.

In regards to the effect of the development on the privacy, daylight or other amenities of occupiers of nearby properties; the new dwelling has two side facing windows in its east elevation - one of the window serves an en-suite with the other serving a bedroom. In regards to the siting of the window within the elevation; the height of the frame is at 2.3m above ground level and a 1.8m boundary fence is proposed in the parts where the existing hedge would be lost. Tullimarina also has an extremely dense established evergreen hedge which is entirely in their control. The dwelling would be sited to the west of Tullimarina and its siting would only marginally effect views of the setting sun; further – the 2.5m eaves would be more than a metre away from the common boundary and the 4.7m ridge would be around 5.8m from the boundary.

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

4. 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.

5. 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 a new dwelling on a site that lies within the Zone of Influence (Zoi) being approximately 1867metres from Stour And Orwell Estuaries SPA and Ramsar. Since the development is for 1 dwelling only, the number of additional recreational visitors would be limited and the likely effects on Stour And Orwell Estuaries SPA and Ramsar 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 Stour And Orwell Estuaries SPA and Ramsar; 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.

6. 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.

In line with the requirements of saved Policy COM6 and emerging Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that no contribution is being requested from Open Spaces on this occasion.

7. Representations

One letter of objection has been received.

<p>We believe that the height of the new roof will negatively impact the light entering into our property and over shadow parts of our home.</p>	<p>See Section 3 'Amenities of Existing & Future Occupiers' above.</p>
<p>The location of the proposed property is so close to the boundary that loss of privacy and increased noise will become unavoidable.</p>	<p>See Section 3 'Amenities of Existing & Future Occupiers' above.</p>
<p>Also to our knowledge our sewerage/waste water joins a common pipe which starts at "Conifers" to the East, runs through our property, "Tullamarine" through "Cedars" property and "Eugene House" before joining the main sewer in the road. Given that on at least two occasions this pipe has become blocked we have a huge concern that another property attached to this drainage pipe will cause further blockages and be overwhelmed.</p>	<p>Noted. Drainage is a building control matter.</p>
<p>The proposed removal of the hedge between the properties will also result in the loss of habitat for local wild life. There are nesting robins in the hedge and other small birds use the hedge to provide cover and food. A fence will not provide the same environment/habitat for these small animals which will be a great loss.</p>	<p>The new dwelling would not cause or result in the felling of, or damage to any significant trees that contribute to the environmental quality and visual amenity of the locality. In order to improve visibility where the improved access driveway is located, much of the existing screening along the front boundary will need to be removed. However, replacement hedge planting will be provided.</p>

8. Other Material Considerations

The Parish Council comment that the proposal is overdevelopment. In response to this, the description of the site confirms that both the new and remaining plot would be similar to other plots

in the locality, there are sufficient examples of dwellings of a similar scale in the vicinity and the proposal would not materially harm the amenities of either the existing occupiers nor proposed occupiers of the site.

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

- 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: 2022/1 (Floor Plans and Elevations) and site layout plan; received 29th July 2020

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

- 3 No above ground works shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 - Trees in relation to design, demolition and construction".

Reason - This is a publicly visible building where an appropriate landscaping scheme is a visually essential requirement.

- 4 There should be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. 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 users of the access and the public highway in the interests of highway safety.

- 5 Prior to occupation of the new dwelling 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.

- 6 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.

- 7 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 Carriageway / 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.

- 8 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.

- 9 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason - To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

- 10 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.

- 11 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.

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.

Steps should be taken to ensure that the Developer provides enough turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

The areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway.

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 or by post to:

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

Demolition & Construction

In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, the following should be considered:-

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- 2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.
- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.
- 7) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- 8) No materials produced as a result of the site development or clearance shall be burned on site.
- 9) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- 10) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Failure to follow the above may result in enforcement action under nuisance legislation (Environmental Protection Act 1990) or the imposition of controls on working hours (Control of Pollution Act 1974).

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