

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	15 th Sept 2020
Planning Development Manager authorisation:	SCE	16.09.2020
Admin checks / despatch completed	DB	16.09.20
Technician Final Checks/ Scanned / LC Notified / UU Emails:	BB	16/09/2020

Application: 20/00835/FUL **Town / Parish:** Wix Parish Council

Applicant: Mr Marquez - Bocking Homes Ltd

Address: Hunters Moon Colchester Road Wix

Development: Variation of Condition 2 (approved plans) of planning permission 19/00270/FUL to allow for alterations to approved external finishes (House Types N, S), alterations to fenestration and new porch feature (House Type S), amendments to chimney stacks, alterations to roof materials and removal of rooflights (House Type R) and the submission of details to discharge the requirements of Condition 9 (Construction Method Statement), Condition 11 (Tree Protection Measures), Condition 12 (Landscaping) and Condition 14 (Noise Assessment)

1. Town / Parish Council

No comments received

2. Consultation Responses

ECC Highways Dept The Highway Authority confirms that the details highlighting the Construction health & safety plan is sufficient to enable the Discharge of Condition 9 (Construction health & safety plan) only.

Environmental Protection I have reviewed the Noise Impact Assessment and agree with the method and findings of the report therefore Environmental Protections recommend the steps outlined in the NIA's conclusion are implemented noted below

6.6 - On the basis that design specifications within this report are adopted, any significant adverse noise impacts will be avoided in the finished development as to accord with overarching planning requirements for new residential development.

This statement refers to the 2 options of mitigation outline in part 5.16 of the report and relates to proposals for Plot 1-2.

If the above is implemented, EP would have no further comments to make in relation to noise impact.

Tree & Landscape Officer
03.09.2020 The information provided in relation to the retention and physical protection of retained trees is sufficient to ensure that retained trees will be physically protected for the duration of the construction phase of any development for which planning permission may be granted.

In terms of soft landscaping the application has provided details of species and planting positions for trees, shrubs and hedgerows which are acceptable and sufficient to enhance the appearance of the development.

3. Planning History

10/00974/FUL	Proposed single storey garden / family room.	Approved	25.10.2010
17/01483/FUL	Erection of five dwellings.	Approved	01.12.2017
19/00270/FUL	Erection of 9 new dwellings with detached garages including new boundary treatments, re-worked landscaping, re-worked access, neighbouring boundary adjustment, potential tree felling and new soft landscaping.	Approved	02.10.2019
20/00484/DISCON	Discharge of conditions 15, 16, and 17 (archaeology) for approval 19/00270/FUL.	Approved	02.06.2020
20/00835/FUL	Variation of Condition 2 (approved plans) of planning permission 19/00270/FUL to allow for alterations to approved external finishes (House Types N, S), alterations to fenestration and new porch feature (House Type S), amendments to chimney stacks, alterations to roof materials and removal of rooflights (House Type R) and the submission of details to discharge the requirements of Condition 9 (Construction Method Statement), Condition 11 (Tree Protection Measures), Condition 12 (Landscaping) and Condition 14 (Noise Assessment)	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
EN1	Landscape Character
EN6A	Protected Species
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN29	Archaeology
HG1	Housing Provision
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
HG13	Backland Residential Development
HG14	Side Isolation
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
SPL3	Sustainable Design
CP1	Sustainable Transport and Accessibility
HP5	Open Space, Sports & Recreation Facilities
LP1	Housing Supply
LP2	Housing Choice
LP4	Housing Layout
LP8	Backland Residential Development
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL7	Archaeology

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 application site is 0.49 hectares of land adjacent to Hunters Moon, Colchester Road, Wix. The site falls outside of a recognised Settlement Development Boundary in the saved Tendring Local Plan 2007, however the majority of the site lies within the defined Settlement Development Boundary for Wix in the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017), with the section to the west of the site falling just outside of the boundary. The character of the surrounding area is relatively urbanised, with built development to the immediate south, east and west. However, further out, particularly to the north, sees areas of large grassed or agricultural land.

Application 19/00270/FUL has not been implemented.

Description of Proposal

The application includes two separate elements:- the consideration of amendments to the external appearance of the dwellings including new porches and changes to the external construction finishes through a variation to the approved plans; confirmation of details submitted are sufficient to enable the discharge conditions attached to planning approval 19/00270/FUL.

Relevant Planning History

Planning permission was granted in October 2019 for the erection of nine new dwellings with detached garages including new boundary treatments, re-worked landscaping, re-worked access, neighbouring boundary adjustment, potential tree felling and new soft landscaping. The approval was subject to seventeen conditions relating to highways, planting/landscaping, noise and archaeology. Prior to the submission of the current application the three conditions pertaining to the submission of archaeological information were formally discharged.

Assessment

1. Principle of Development

The principle of development has already been considered to be acceptable through the approval of application 19/00270/FUL. The current submission does not materially affect the heart of the extant approval.

2. Backland Development

Compliance with the criteria for assessing whether a proposal is an appropriate form of backland development has already been considered to be acceptable through the approval of application 19/00270/FUL. The current submission does not materially affect the heart of the extant approval.

3. Design, Layout and Appearance

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 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 Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

In regards to the external appearance of dwelling type N it is proposed to change the walls from red brick to part red brick part rendered. It is proposed to alter the siting and number of some of the windows and add a porch-feature of dwelling type S, some alterations to the siting of the chimney stacks are proposed as well as the omission of rooflights to dwelling type R.

The proposed changes are too significant to be undertaken through a non-material process; however they are relatively minor in the context of the wider permission; the proposed finishes still accord with a palette of red brick, painted render and slate tile proposed for the wider development.

4. Impacts upon neighbouring amenities

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).

The alterations to House Type R (Plot 2) include a new first-floor side facing window. This window is a little over 9m away from the east elevation of Hunters Moon and would provide daylight to a first-floor landing. In order to ensure that the development will not have a materially damaging impact on the privacy of occupiers of nearby properties a condition requiring the glazing to be obscured will be attached to any forthcoming permission.

In regards to the potential for noise complaints from future residents of the development in respect of noise emanating from the commercial activities to the east of the site; any mitigation measures agreed must be implemented prior to occupation and retained as approved thereafter. These measures were secured by a planning condition requiring the submission of a Noise Impact Assessment. In response to this submission, the Environmental Protection Officer comments that they have reviewed the Noise Impact Assessment and agree with the method and findings of the report therefore Environmental Protections recommend the steps outlined in the NIA's conclusion are implemented as such:- on the basis that design specifications within this report are adopted, any significant adverse noise impacts will be avoided in the finished development as to accord with overarching planning requirements for new residential development; this statement refers to the 2 options of mitigation outline in part 5.16 of the report and relates to proposals for Plot 1-2. Environmental Protection would have no further comments to make in relation to noise impact if the above is implemented. The details submitted are therefore considered sufficient to discharge Condition 14 of planning permission 19/00270/FUL.

5. Trees and Landscaping

The impact of the proposed development on trees within/to the perimeter of the site has been agreed and accepted under application 19/00270/FUL subject to a number of pre-commencement conditions pertaining to:- tree protection measures and a scheme of hard and soft landscaping works. In regards to the landscaping the information provided in relation to the retention and physical protection of retained trees is sufficient to ensure that retained trees will be physically protected for the duration of the construction phase of any development for which planning permission may be granted. In terms of soft landscaping the application has provided details of species and planting positions for trees, shrubs and hedgerows which are acceptable and sufficient to enhance the appearance of the development. The details submitted are therefore considered sufficient to discharge Condition 11 of planning permission 19/00270/FUL.

6. Highway Considerations

The impact of the development on highway safety and the level of parking provision for the development has already been deemed acceptable under application 19/00270/FUL subject to a number of conditions, one of which was the submission of a Construction Method Statement. The Highway Authority confirms that the details highlighting the Construction health & safety plan are sufficient to enable the Discharge of Condition 9 (Construction health & safety plan) only.

7. Public Open Space

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".

There is currently a deficit of -0.56 hectares of equipped play/open space in Wix. Due to the limited provision in Wix a contribution towards additional facilities is justified and relevant, and would be spent at the nearest play area to the development to provide additional equipment.

A completed unilateral undertaking has been provided for application 19/00270/FUL to secure this legal obligation and to ensure compliance with saved policy COM6.

8. 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 development relates solely to changes to the external appearance of the dwellings. This application seeks to amend the original planning permission which has been implemented and does not involve any increase to the number of properties to be built. Having considered the proposed avoidance and mitigation measures above, Tendring District Council conclude that in this instance it would be unreasonable to seek further mitigation measures to that already secured through the Unilateral Undertaking in place for application 19/00270/FUL.

The existing signed Unilateral Undertaking ensures 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.

Contributions

No comments have been received from the Parish Council.

One letter has been received in response to the public consultation process.

<p>There have been several bonfires on site. The bonfires contained trees and branches cut down by the developer along with a multitude of other debris</p>	<p>Noted. Complaints about bonfires should be made directly to:- environmental.services@tendringdc.gov.uk</p>
<p>The developer also is planning to fell Oak tree T6, this I believe to be unnecessary and the felling of such a beautiful tree would be to the detriment of the local area, it also provides a screen between my property and the development. I object to the felling of this tree.</p>	<p>The removal of these tree was considered acceptable under application 19/00270/FUL.</p>

6. Recommendation

Approval - Full

7. Conditions / Reasons for Refusal

1. The development hereby permitted shall commence prior to the 2nd October 2022.

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:- 958-3-SITE/S2/03/F (Landscape Arrangement), 958-3/S2/09/A (Indicative Street Elevations), U433-DR-004, revision B (Proposed Site Levels), 958-3/S2/10B (Indicative Entrance Approaches), 958-3/S2/01/C (as proposed, Home Type K), 958-3/S2/03/C (as proposed, Home Type L), 958-3/S2/04/C (as proposed, Home Type M), 958-3/S2/05/C (as proposed, Home Type N), 958-3/S2/06/C (as proposed, Home Type R), 958-3/S2/07/C (as proposed, Home Type S), Noise Impact Assessment, reference 35033-R1 and Construction Health & Safety Plan and Arboricultural Impact Assessment; received 18th August 2020.

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

3. 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 10 metres from the back of Footway with Colchester Road and provided with an appropriate dropped kerb crossing of the footway.

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.

4. Prior to first occupation of the development the size 3 side road/vehicular turning facility shown in principle in drawing number 958-3-SITE/S2/03/F 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.

5. Prior to the first occupation of the development, a 500mm wide overhang strip shall be provided adjacent to the carriageway unless otherwise agreed, in writing, by the Local Planning Authority.

Reason - To ensure that adequate clearance for vehicles swept paths is provided in the interests of highway safety.

6. The existing access at 'Wingarth' shown on the Proposed Landscape Arrangement, drawing no.958-3-SITE/S2/03/F adjacent to the new vehicular access shall be suitably and permanently closed incorporating the reinstatement to full height of the 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.

7. No unbound materials shall be used in the surface treatment of any proposed vehicular access within 6 metres of the carriageway.

Reason - To avoid displacement of loose material onto the highway in the interests of highway safety.

8. 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.

9. Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason - To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

10. No above ground works shall take place until the existing trees on the site, agreed with the Local Planning Authority for inclusion in the scheme of landscaping, have been protected by the erection of temporary protective fences of a height, size and in positions which shall previously have been agreed, in writing, with the Local Planning Authority. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected. Any trees dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with trees of appropriate size and species during the first planting season, or in accordance with such other arrangement as may be agreed in writing with the Local Planning Authority, following the death of, or severe damage to the trees.

Reason - To ensure the protected tree on site is not damaged during the construction of the proposed dwelling.

11. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs 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 enhance the visual impact of the proposed works.

12. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), the first-floor window in the west elevation of Plot 2 shall be glazed in obscure glass before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

Reason - To protect the privacy and amenities of the occupiers of adjoining property.

8. Informatives

Application Approved Without Amendment

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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.

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.

All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway by the ECC.

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.

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