

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	19/10/2020
Planning Development Manager authorisation:	TF	19/10/2020
Admin checks / despatch completed	CC	19/10/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CD	19/10/2020

Application: 20/01038/OUT **Town / Parish:** Lawford Parish Council
Applicant: Mr and Mrs Day
Address: Land adjacent 46 Harwich Road Lawford Manningtree
Development: Proposed erection of one dwelling.

1. Town / Parish Council

Lawford Parish Council
09.09.2020

Applications for similar development in Harwich Road have been approved, therefore Council has no grounds to object to this application.

2. Consultation Responses

ECC Highways Dept
05.10.2020

The information that was submitted in association with the application has been fully considered by the Highway Authority. The proposed dwelling will be situated within the existing 40-mph speed limit; in front of the proposed plot it has come to light that there is a tarmac lay-by directly in front also used as a bus request stop and is in daily use and there was in the past a telephone box and the cable vault is still in-situ. It appears that the host and proposed dwellings will retain adequate off-street parking and turning, therefore:

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

1. Prior to occupation of the development, the road junction / access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 120 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

2. Prior to occupation of the 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 in accordance with policy DM1

3. No unbound materials shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1.

4. Prior to occupation of the dwelling the existing vehicular access 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 to form a shared access for the host and proposed dwelling.

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 in accordance with policy DM1.

5. 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 to ensure accordance with policy DM1.

6. The proposed development shall not be occupied until such time as a domestic car parking for a minimum of two vehicles has been provided in accordance with the Parking Standards, details to be agreed with the Local Planning Authority. The agreed car parking shall be retained at all times for such purpose.

Reason: To ensure that on street parking of vehicles in the adjoining streets/roads does not occur and that appropriate parking is provided in accordance with Policy DM8.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: 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

3. Planning History

06/00785/FUL	Erection of a steel framed garage for storage of caravan (existing shed and plastic tunnel to be demolished).	Refused	05.07.2006
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4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
HG1	Housing Provision
HG7	Residential Densities
HG9	Private Amenity Space
HG14	Side Isolation
EN1	Landscape Character
EN6A	Protected Species
EN11A	Protection of International Sites European Sites and RAMSAR Sites
COM6	Provision of Recreational Open Space for New Residential Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
SPL1	Managing Growth
SPL3	Sustainable Design
HP5	Open Space, Sports & Recreation Facilities

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of

consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities ‘Garden Communities’ proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.

The three North Essex Authorities are currently considering the Inspector’s advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years’ worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF (which applies until such time that the figures in the new Local Plan are adopted).

In addition, the actual need for housing (as set out in the emerging Local Plan) was found to be much less than the figure produced by the standard method when tested at the recent Examination in Public of the Local Plan, as recently endorsed by the Local Plan Inspector. Therefore, in weighing the benefits of residential development against the harm, the Inspector’s endorsement of the lower housing requirement figure is a strong material consideration which tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing to address the perceived shortfall – given that, against the Local Plan housing requirement there is, in fact, a surplus of supply as opposed to a shortfall.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site relates to land adjacent number 46 Harwich Road, Lawford. The site measures approximately 0.1 hectares and is located on the southern side of Harwich Road.

Proposal

This application seeks outline planning permission for the erection of one dwelling at 46 Harwich Road, Lawford.

This application purely seeks to establish the principle of development. Access, Layout, Scale, Landscaping and Appearance are therefore reserved for subsequent approval as part of a detailed application.

Assessment

The main considerations for this application are;

- Principle of Development
- Layout, Scale, Character and Impact
- Residential Amenities
- Highway Safety and Parking
- Trees and Landscaping
- Financial Contributions - Open Space
- Habitat Regulations Assessment
- Other Considerations

1. Principle of development

The application site lies outside of a Settlement Development Boundary as defined within the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

However, the principle of development has been established through planning appeal decision reference APP/P1560/W/18/3218683 dated 3rd May 2019. The appeal decision relates to number 43 Harwich Road, Lawford which is located approximately 516 metres away from this application site. The Appeal Inspector explained within the appeal decision letter that:

'...the appeal site is roughly midway between the settlements of Ardleigh and Lawford, being around a mile or so to each and outside of their development boundaries. The EP says that Lawford is a 'Smaller Urban Settlement', partly due to relatively large range of local services'.

The inspector, further explained that:

'...there are bus stops within 0.29 miles of the appeal site with services to Ardleigh and Lawford. This distance is not particularly far and accessible by footways along Harwich Road (A137) which is the principal road linking Ardleigh, Manningtree, Mistley and Lawford with Colchester. It is served by three bus routes with a frequent service in each direction each day, from early in the morning to late at night. Therefore, a bus journey to Lawford to utilise the large range of services there would be relatively straight-forward. I consider that sustainable travel other than by private car would be reasonably practicable in this case.'

The inspector concluded that:

'...there would be no harm caused through the location of the proposed dwelling. The proposal, being situated outside defined settlement development boundaries would be in conflict with Saved Policy QL1 of the Tendring District Local Plan 2007 (LP) which sets out the spatial strategy for Tendring to 2011. However, this policy is several years beyond its defined period of

implementation and out-of-date. There would also be no harm caused by reason of the proposal's location. Therefore, I give the proposal's conflict with this policy very limited weight'.

Therefore, given the above, the accessibility of services and facilities and the effect of development on the character of the countryside indicate that the site would provide an appropriate location for housing. There would be some intrinsic conflict with Saved Policy QL1 but this would not manifest itself into any harm in terms of its overall objectives or result in social, economic or environmental harm. The principle of residential development is therefore considered to be acceptable as established by the recent appeal decision.

2. Layout, Scale, Character and Impact

Paragraphs 127 and 170 of the NPPF state that developments should add to the overall quality of the area, be visually attractive as a result of good architecture and be sympathetic to local character, including the surrounding built environment.

Saved Policies QL9, QL10 and QL11 of the adopted Tendring District Local Plan (2007) 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 within Policy SPL3 of the emerging Local Plan.

The application is in outline form only, with all matters reserved for a future application. As such, no elevational or layout plans have been provided. That notwithstanding, it is considered that the site is capable of accommodating one dwelling, with all of the necessary parking and private amenity requirements. The design of the dwelling should be in keeping with the current street scene.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of one bedroom should be a minimum of 50 square metres, for a dwelling with two bedrooms there should be a minimum of 75 square metres, and for a dwelling of three bedrooms or more there should be a minimum of 100 square metres. The submitted plans provide no information as to the number of bedrooms, but the above minimum measurements must be adhered to within a future application.

3. Residential Amenities

The NPPF, in paragraph 127 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 Tendring District Local Plan (2007) 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 (2017).

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.

Appearance and layout are reserved for later consideration. It is considered that the proposed dwelling could be accommodated on the site with no material loss of amenity in terms of loss of light, outlook or privacy. It is therefore considered that sufficient spacing between properties could be achieved to result in a development that would not harm the amenities of neighbours.

4. Highway Safety and Parking

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.

Essex County Highways have been consulted on this application and have stated that the proposed dwelling will be situated within the existing 40-mph speed limit; in front of the proposed plot it has come to light that there is a tarmac lay-by directly in front also used as a bus request stop and is in daily use and there was in the past a telephone box and the cable vault is still in-situ. It appears that the host and proposed dwellings will retain adequate off-street parking and turning. It is therefore considered that the proposed development is acceptable in terms of highway safety subject to conditions relating to the following; visibility splays, vehicular turning facility, no unbound materials, existing vehicular access, no discharge of surface water and car parking. As access is a reserved matter these conditions will not be imposed at this stage but will be reconsidered on submission of the detailed reserved matters proposal.

Furthermore, the Council's Adopted Parking Standards require that for a dwelling with two or more bedrooms that a minimum of two parking spaces are required. Parking spaces should measure 5.5m x 2.9 metres and garages, if being relied on to provide a parking space, should measure 7m x 3m internally. The submitted plans do not indicate the number of bedrooms, but it is considered there is sufficient space within the site to provide the necessary parking for one dwelling.

5. Trees and Landscaping

Paragraph 170 of the National Planning Policy Framework (2019) states planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and should protect and enhance valued landscapes.

Policy EN1 of the Saved Local Plan states the quality of the district's landscape and its distinctive local character will be protected and, where possible, enhanced. Any development which would significantly harm landscape character or quality will not be permitted. The sentiments of this policy are carried forward within Emerging Local Plan Policy PPL3.

Landscaping will be secured at the reserved matters stage to secure details of soft landscaping to soften, screen and enhance the appearance of the development. The application site is set to grass and does not contain any trees or other significant vegetation.

The application site currently forms part of the residential curtilage of the host property and is set to grass. The eastern boundary is demarcated by an established hedgerow comprising indigenous species including Hawthorn and Blackthorn. This feature will not be adversely affected by the development proposal. There are no other significant trees or vegetation on the application site. Soft landscaping will be required when submitting the reserved matters application to help soften screen and enhance the appearance of the development.

7. Financial Contributions - 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".

No contribution is being requested from Open Spaces on this occasion.

8. Habitat Regulations Assessment

Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.

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 application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zoi) being approximately 2.1 km away from the Stour Orwell Estuaries RAMSAR, SAC and SPA.

New housing development within the Zoi would be likely to increase the number of recreational visitors to the Stour and Orwell Estuary 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 completed unilateral undertaking has been received to secure the financial contribution required to mitigate against any recreational impact from the new dwelling and to 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.

9. Other Considerations

Lawford Parish Council has commented on this application and have stated that given applications for similar development in Harwich Road have been approved Council they have no grounds to object to this application.

One letter of representation has been received:

- Objection based on an objection letter submitted 21 November 2019 in relation to planning application 19/01667/FUL.
- Concerns with highway safety
- Concerns with access to both 45 and 46
- Concerns with the drainage

The above concerns have been taken into consideration when determining this application. In regards to highway safety and the access, Essex County Highways have been consulted on this application and have no objection subject to a number of conditions. The application form submitted as part of this application states that the proposed dwelling will be served by a soakaway. An informative has been imposed to this permission which details environmental permitting.

6. **Recommendation**

Approval - Outline

7. **Conditions**

- 1 The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

- 3 No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the access, appearance, landscaping, layout and scale have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - The application as submitted does not provide sufficient particulars for consideration of these details

- 4 All new parking areas and areas of hardstanding shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the site.

Reason - In the interests of sustainable development and to minimise the risk of surface water flooding.

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.

Highways

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

Environmental Permitting

The applicant may be able to discharge sewage effluent under the General Binding Rules (GBR). This would be classed as a new discharge so additional rules would need to be complied with. The GBR can be found at:

<https://www.gov.uk/government/publications/small-sewage-discharges-in-england-general-binding-rules>.

If the applicant can't comply with the GBR they would need to apply for an Environmental Permit. The Environment Agency can provide basic pre-application advice for free to help with the permit application. A chargeable service is available if more in-depth advice is required. Pre-application advice can be obtained via this online form:

<https://www.gov.uk/government/publications/environmental-permit-pre-application-advice-form>.

A permit application can't be pre-determined so the applicant should not automatically assume that a permit will be issued. The applicant should also be aware that the granting of Planning Permission or Building Regulation approval does not guarantee the granting of an Environmental Permit.

The applicant will need to obtain separate permissions/easements to cross or use third party land if this is relevant to their proposal.

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