

20/00325/FUL	Proposed erection of a single storey 2 bedroom dwelling.	Refused	05.06.2020
20/01112/FUL	New driveway access to plot 1 and 2.	Approved	10.11.2020
20/01278/FUL	Proposed variation of condition 2 of approval 19/01506/FUL to reflect various material alterations.	Current	
20/01296/DISCON	Discharge of condition 4 (vehicular turning) of approval 19/01506/FUL.	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
EN6	Biodiversity
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN3	Coastal Protection Belt
HG1	Housing Provision
HG9	Private Amenity Space
LP1	Housing Supply
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
PPL2	Coastal Protection Belt
PPL4	Biodiversity and Geodiversity

Local Planning Guidance

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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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 was, for some time, the last property before exiting the predominantly residential area prior to reaching open fields. Properties are typically sited around 20m back from the pavement edge and comprise a wide variety of bungalows and houses of all ages and building styles and designs, with no pre-dominant character.

The existing site is an irregular 'L' shape having an area in excess of 2,500sqm. It was occupied by a detached single-storey bungalow which has subsequently been demolished. The west boundary comprises part vertical feather-edge plank, part conifer. The north and east boundaries are both evergreen hedges. There is a small collection of outbuildings which will remain but be contained within the separated-off parcel of land.

Proposal

This application proposes varying Condition 2 (approved plans) of the scheme approved under reference 19/01506/FUL. The proposed changes are detailed here:-

- All roof lights have been omitted from both plots
- the slot window in the kitchen from each plot has been omitted
- front door and rear bi-fold frames from aluminium now to be UPVC
- rainwater goods from alumasc to a PVC alternative in black cast
- fascias and soffits from aluminium to UPVC.
- obscure glazing and fixed windows added to both plots at first floor to the bathroom, en-suite and landing
- Hardiplank cladding is omitted and the building now to be render-clad only
- The rear bi-fold door and corner window system is omitted, with a separate window and door proposed
- The 'outer' supporting pillar to the open, covered porch is to be removed in order that the porches are open to the front only

Principle

The application is a variation to an already-approved scheme, as such the principle of the development has already been established.

Assessment

1. Layout, Design & Appearance:-

The National Planning Policy Framework 2018 (NPPF) attaches great importance to the design of the built environment and confirms good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings. Paragraph 127 states that planning policies and decisions should ensure that developments are visually attractive as a result of good architecture and are sympathetic to local character and history including the surrounding built environment and landscaping setting. Paragraph 130 of the NPPF states that permission should be refused for

development of poor design that fails to take the opportunities available for improving the character and quality of an area.

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.

The design is a contemporary one, but given the lack of readily defined character to the surrounding development, and the site's edge of village location, the design is appropriate for its surroundings. The proposed changes to external finishes do not diminish the quality of the approved scheme in any way.

2. Impact to Neighbouring Amenities:-

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).

The proposed dwellings would have four bedrooms and require a private space of 100sqm or more; this is adequately shown on the plans. Overall the proposal is considered to secure a good standard of amenity for all future occupants of land and buildings.

Plot 1 would share its boundaries with 100 Point Clear Road and Plot 2. Plot 2 would share its boundaries with Plot 1 and the two recently-constructed but as of yet unoccupied dwellings approved under application 16/01869/FUL.

Although the proposed changes do introduce first floor side facing windows, these windows serve bathrooms and the plans indicate the windows are to be obscurely glazed and permanently fixed shut. Overall the development would not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

3. Highways

The variation to the approved plans relates only to the external appearance of the proposed dwellings; as such the contents of the consultation response to the previous application still remains.

4. Landscaping

The variation to the approved plans relates only to the external appearance of the proposed dwellings; as such the proposed landscaping has already been deemed acceptable.

5. Legal Obligation

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 19/01506/FUL to secure this legal obligation and to ensure compliance with saved policy COM6.

6. Habitat Regulations Assessment

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 19/01506/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.

Other Considerations

St Osyth Parish Council has no objections.

Conclusion

It is considered that the proposed development is consistent with the National and Local Plan Policies identified above, and in the absence of any material harm resulting from the development, the application is recommended for approval.

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:

6777-1101_E Proposed Site Plan
6777-1210 Plot 1 Proposed Plans and Elevations
6777-1211 Plot 2 Proposed plans and Elevations
6777-1302_A Proposed Street Scene

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

- 3 Prior to occupation of the development, each vehicular access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before each vehicular 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.

- 4 Prior to occupation of the development 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.

- 5 Prior to occupation of the development each vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 3.6 metres (4 low kerbs), shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

Reason - to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.

- 6 The gradient of the proposed vehicular access shall be not steeper than 4% (1in 25) for the first 6 metres from the highway boundary and not steeper than 8% (1in 12.5) thereafter. To ensure that vehicles can enter and leave the highway in a controlled manner.

Reason - to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety to ensure accordance with safety

- 7 No loose or unbound materials used in the surface treatment of the access within 6m of the highway boundary.

Reason - To avoid displacement of loose material onto 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 The existing / proposed new boundary planting shall be cut back / planted a minimum of 1 metre back from the highway boundary and any visibility splay. To ensure that the future outward growth of the planting does not encroach upon the highway or affect the visibility splays.

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.

- 12 Prior to commencement of the development, 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.

Reason - To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety.

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.

Highway Informative

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.

Steps should be taken to ensure that the Developer provides sufficient 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.

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

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