

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	22/12/2020
Planning Development Manager authorisation:	SCE	22.12.2020
Admin checks / despatch completed	CC	22.12.2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	DB	22/12/2020

Application: 20/00678/FUL **Town / Parish:** Frinton & Walton Town Council
Applicant: Mr J Lott
Address: Land adjacent Green End Garage Green End Lane Great Holland
Development: Proposed dwelling.

1. Town / Parish Council

Frinton and Walton Town Council Not commented on this application

2. Consultation Responses

ECC Highways Dept
26.06.2020

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 the occupation of the dwelling the internal layout shall be provided in principal with drawing numbers:

- Drawing 1279/01b Amended site plan and block plan.
- Drawing 1279/03b Amended Landscape plan.

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1.

2. The dwelling shall not be occupied until such time as a car parking and turning area has been provided in principal with proposed drawing no. 1279-01b. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 & 8.

3. Prior to occupation of the development the 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 (equivalent to 4 low kerbs), shall be retained at that width for 6 metres within the site.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.

4. 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 in accordance with policy DM1

5. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

6. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

7. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified 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 in accordance with policy DM1.

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: 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.

2: 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: 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.

3. Planning History

10/00030/LUEX	Use of the property, land and buildings, as a garage for the servicing, repair, external storage and parking of motor vehicles in connection with the business (Class B2)	Lawful Use Certificate Refused	12.03.2010
10/00664/LUEX	Use of land and buildings as shown on attached drawing and being: Building 1: Service bay (B2) Building 2: Valet bay (B1c) Building 3: Waste store (B8) Building 4: Storage of tractor Building 5: Secure store Building 6: Office (B1a) Land area A: Forecourt arrivals and deliveries Land area B: Customer collection Land area C: Customer parking Land area D: Parking overflow and long term vehicle storage Land area E: Valet parking Land area F: Turning area	Split decision	29.10.2010
11/00466/FUL	Demolition of existing buildings (service and valet bay, waste store and office) and construction of new combined workshop and service building (service bays, MOT bay, store, reception, office, kitchen and WC), new and reconfigured parking area and landscaping.	Approved	04.07.2011
14/00981/FUL	Construction of extension to existing combined vehicle workshop and service building.	Approved	05.09.2014
19/00716/OUT	Proposed development of one dwelling.	Approved	12.09.2019
20/00218/DETAIL	Approval of reserved matters following outline application 19/00716/OUT.	Approved	27.05.2020

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

HG1 Housing Provision

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

EN1 Landscape Character

EN2 Local Green Gaps

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

COM6 Provision of Recreational Open Space for New Residential Development

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

SP1 Presumption in Favour of Sustainable Development

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL6 Strategic Green Gaps

CP1 Sustainable Transport and Accessibility

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) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10th December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.

The Council is now making arrangements to formally adopt Section 1 of the Local Plan in its modified state and this is expected to be confirmed at the meeting of Full Council on 26th January 2021 – at which point will become part of the development plan and will carry full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan. In the interim, the modified policies in the Section 1 Local Plan, including the confirmed housing requirement, can be given significant weight in decision making owing to their advancement through the final stages of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) is now expected to proceed in 2021 and two Inspectors have already been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.

Where emerging policies are particularly relevant to a planning application and can be given 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 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 technically falls below 5 years – but this is only because, until the modified Section 1 Local Plan is formally adopted at the end of January 2021, housing supply has to be calculated against a housing need figure derived through the government's 'standard methodology' – a figure that is significantly higher than the 'objectively assessed housing need' of 550 dwellings per annum in the Section 1 Plan and confirmed by the Inspector in his final report to be sound. Because of this technicality, the NPPF still requires 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.

However, because the housing land supply shortfall is relatively modest when applying the standard method prescribed by the NPPF and significant weight can now be given, in the interim, to the sound policies in the modified Section 1 Plan (including the housing requirement of 550 dwellings per annum), the reality is that there is no housing shortfall and, on adoption of the Section 1 Plan, the Council will be able to report a significant surplus of housing land supply over the 5 year requirement, in the order of 6.5 years. Therefore, in weighing the benefits of residential development against the harm, the Inspector's confirmation of 550 dwellings per annum as the actual objectively assessed housing need for Tendring is a significant material consideration which substantially tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing – particularly in the consideration of proposals that fall outside of the settlement development boundaries in either the adopted or the emerging Section 2 Local Plan.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site measures approximately 0.05 hectares and is a rectangular shaped plot with a road frontage of 15metres. The site incorporates part of the parking area for the neighbouring 'Green End Garage' which is located to the east of the site. The proposal will see the loss of four parking spaces. The main workshop is set back from the road frontage with a sales building closer to the highway. To the east and west of the workshop are vehicle display and parking areas. The application site is enclosed across the frontage by 1.2 metre high hedgerow.

Planning Appeals and History

To the west of the application site, planning reference 16/00793/FUL was refused planning permission for the erection of a detached dwelling fronting Green End Lane within part of the garden to Holland House'. The application was taken to planning appeal and it was allowed by the Planning Inspectorate in May 2016 under appeal reference APP/P1560/W/17/3166412.

Planning permission was granted under planning application reference 19/00716/OUT for one dwelling.

Planning permission was granted under planning reference 20/00218/DETAIL for the approval of the reserved matters following the outline application.

Proposal

This application seeks planning permission for permission for the erection of one dwelling.

Assessment

The main considerations for this application are;

- o Principle of Development

- o Scale, Layout and Appearance
- o Residential Amenities
- o Trees and Landscaping
- o Highway Safety and Parking
- o Local Green Gaps
- o Legal Obligation - Open Space
- o Financial Obligation – RAMS
- o Other Considerations

1. Principle of Development

The principle of development has been established through the granting of planning application reference 19/00716/OUT. Therefore this application is subject to the detailed consideration below.

2. Scale, Layout and Appearance

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 submitted plans demonstrate a two storey dwelling with access from Green End Garage. The layout of the development allows for a well spaced property retaining at least 1 metre to all boundaries exceed the standards set out within saved Policy HG14 of the Tendring District Local Plan. The dwelling retains a good set back from the highway with parking and turning area to the front of the dwelling.

The overall scale and footprint is considered to be proportionate to the plot and the existing adjacent neighbouring dwelling.

The fenestration and material details provided within the application form are considered to relate acceptably to the rural area and would not appear incongruous in this location.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of three bedrooms or more should accommodate a minimum of 100 square metres. The plans provided demonstrates that the proposed four bedroom house will provide private amenity space in line with Policy HG9.

Overall the development is considered to represent an acceptable scale, layout and appearance that will not appear harmful to visual amenity or the character and appearance of the street scene.

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.

The proposed dwelling will be visible to both Green End Garage and the neighbouring dwelling to the east however the plans demonstrate that there will be a minimum of 1 metre distance to each neighbouring boundary.

There are no first floor windows proposed to the western side elevation and therefore it is considered that the dwelling will not cause any impact upon the neighbouring amenities.

There is one window proposed to the eastern side elevation which will serve the en-suite to bedroom two, however a condition will be imposed to ensure that this is obscure glazed to reduce any impact upon the neighbouring amenities.

The proposal is considered acceptable in terms of neighbouring impact and residential amenities.

4. Trees and Landscaping

An amended landscaping plan has been provided demonstrating the species and specification and is considered acceptable.

5. Highway Safety/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 Highway Authority have been consulted on this application and have stated that there are no objections subject to conditions relating to the internal layout, car parking and turning area, the vehicular access, no unbound materials, cycle parking, residential travel pack and storage of materials. The cycle parking condition will not be imposed as there is a large garden to accommodate cycle parking. The Residential Travel Information Pack will also not be imposed as this application is for one dwelling only and is usually only applied to major schemes. The storage of building materials will be imposed as an informative only.

The proposed dwelling will result in the loss of four parking spaces for Green End Garage however there is scope on site for the spaces to be relocated to the north west of the application site.

The Council's Adopted Parking Standards require that dwellings with 2 bedrooms or more require a minimum of 2 parking space is provided per dwelling measuring 5.5 metres by 2.9 metres. The plans provided demonstrate that the site can accommodate two parking spaces in line with the Standards.

6. Local Green Gap

Policy EN2 of the Tendring District Local Plan 2007 states that during the plan period, land within Local Green Gaps, as defined on the Proposals Map, will be kept open and essentially free of development. This is to prevent the coalescence of settlements, and to protect their rural settings. Minor development proposals may be permitted if they do not harm, individually or collectively, to the purposes of a Local Green Gap or to its open character. These sentiments are carried forward in Policy PPL6 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Although the application proposes a dwelling in the Local Green Gap, the proposal is considered to be a minor development. Within the appeal decision, the Planning Inspectorate stated that 'the proposal would not harm the character and appearance of the area'. It is therefore considered that the proposed dwelling would not cause any significant harm upon the Local Green Gap due to the proposal representing a logical infill of linear form.

7. Legal Obligation - 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 14.12 hectares of equipped play in Frinton, Walton & Kirby and Great Holland. There is only one play area in Great Holland located on the corner of Pork Lane and Main Road. Due to the size of the development, it is unlikely that this development will impact existing facilities. Therefore no contribution is being requested on this occasion.

8. Financial Contribution - RAM's

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 residential on a site that lies within the Zone of Influence (Zol) being approximately 2.7 km away from Hamford Water Ramsar and SPA. New housing development within the Zol would be likely to increase the number of recreational visitors to Hamford Water 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 provided to secure this legal obligation 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

Frinton and Walton Town Council have not commented on this application.

No letters of representation have been received.

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;

- DRG No. 1279/01 B
- DRG No. 1279/02
- DRG No. 1279/03 C

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

- 3 Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), other than those shown on the approved drawings, no provision of fences, walls or other enclosures shall be erected along the eastern or southern boundaries or forward of the front elevation of the dwelling hereby approved except in accordance with details that shall previously be approved in writing by the Local Planning Authority.

Reason - In the interests of visual amenity.

- 4 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved Landscaping Plan - Drawing No. 1279/03C, 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 - In the interests of the character and quality of the development.

- 5 Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), the window serving the ensuite in Bedroom 2 on the eastern side elevation shown on Drawing No - 1279/02A - Proposed Elevations and Floorplans shall be non opening and glazed in obscure glass and shall thereafter be permanently retained in this approved form.

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

- 6 Prior to the occupation of the dwelling the internal layout shall be provided in principal with drawing numbers:
- o Drawing 1279/01b Amended site plan and block plan.
 - o Drawing 1279/03b Amended Landscape plan.

Reason - To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety

- 7 The dwelling shall not be occupied until such time as a car parking and turning area has been provided in principal with proposed drawing no. 1279-01b. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason - To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety

- 8 Prior to occupation of the development the 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 (equivalent to 4 low kerbs), shall be retained at that width for 6 metres within the site.

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

- 9 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

- 10 No above ground works shall take place until precise details of the provision, siting, height, design and materials of all new screen walls and fences have been submitted to and agreed in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the first occupation of the approved dwellings and shall be retained thereafter in the approved form.

Reason - In the interests of visual and residential 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.

Highways

1: 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.

2: 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.

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3: 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? If so please specify:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO