

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	ML	15/01/2021
Planning Development Manager authorisation:	TC	15/01/2021
Admin checks / despatch completed	DB	15/01/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	15/01/2021

**Application:** 21/00012/NMA **Town / Parish:** St Osyth Parish Council

**Applicant:** Mr R.A, T.R, D.R, A.I Sargeant

**Address:** Lake House North St Osyth Priory The Bury

**Development:** Non Material Amendment to allow minor elevational design changes and re-routing of approved access track to follow existing route from the north for planning approval 19/00032/FUL .

### 1. Town / Parish Council

n/a

### 2. Consultation Responses

n/a

### 3. Planning History

16/00671/FUL	Erection of 17 dwellings for use as residential and holiday accommodation (C3 use); restoration of park landscape; bunding; re-grading of 9 hectares of land; construction and alterations to access driveway; landscaping and all ancillary works.	Approved	18.11.2016
17/00634/FUL	Variation of condition 3 of planning permission 16/00671/FUL - To allow the re-location of Lake House North and South Lodge.	Approved	19.12.2018
19/00032/FUL	Variation of Condition 2 (Approved plans) of application 17/00634/FUL - to allow amendments to the elevations of Lake House North and the re-building of the end gable serving Nuns Hall.	Approved	08.04.2019
21/00012/NMA	Non Material Amendment to allow minor elevational design changes and re-routing of approved access track to follow existing route from the north for planning approval	Current	

#### **4. Relevant Policies / Government Guidance**

n/a

##### **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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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 10<sup>th</sup> 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 26<sup>th</sup> 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)**

From 1st October 2009 Section 96A of the Town and Country Planning Act came into force allowing a Local Planning Authority, on application, to make a change to any planning permission if it is satisfied that the amendment proposed is non-material.

The key test as to the acceptability of an application for a non-material change is whether the change is material to any development plan policy. If the answer is 'no', three further tests should be applied:

1. Is the proposed change significant in terms of its scale (magnitude, degree etc.), in relation to the original approval?
2. Would the proposed change result in a detrimental impact either visually or in terms of amenity?
3. Would the interests of any third party or body who participated in or were informed of the original decision be disadvantaged in any way?

### Appraisal

In this instance the proposed amendments seek a non-material amendment to planning permission 19/00032/NMA to incorporate the following changes to the Lake House North;

- The re-routing of the access track northwards utilising an existing track and re-configured parking area; and
- Minor elevational alterations to the Lake House including; insertion/removal of windows, additional detailing to the eaves, insertion of a balcony, retention of the bank to including increased decking area and the removal of the glass balustrade/first floor link.

In this instance the changes proposed do not represent a significant change from the existing approval. There would not be a detrimental impact in respect of visual amenity or heritage impacts and given the distance to the closest residents no third party would be disadvantaged in any way from the proposed revisions. The proposals retain more of the existing bank, making construction more efficient, whilst ensuring that the design of the waterside house retains the appearance of the previous approval. The proposed route of the access track utilises an existing route from the north. The trees shown on the plans are all proposed and the route is currently bare ground.

Taking into consideration the above the changes proposed to planning permission 19/00032/FUL, the revised scheme will not result in a significant change to the overall development. On this basis, the application complies with national and local planning policies.

### Conclusion

In this instance it is considered the amendments being sought are minor and are therefore acceptable as a non-material amendment to the approved plans attached to 19/00032/FUL.

### **6. Recommendation**

Approval

### **7. Conditions**

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:
  - CC-0175-CC-0 B
  - CC-0175-CC-0 F
  - CC-0175-CC-01 E

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

### **8. Informatives**

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