

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	13/01/2021
Planning Development Manager authorisation:	TC	13/01/2021
Admin checks / despatch completed	DB	13/01/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	14.01.2021

**Application:** 20/01716/FUL **Town / Parish:** Weeley Parish Council

**Applicant:** Bridgebank Homes Ltd

**Address:** Land adjacent 43 Mill Lane Weeley Heath

**Development:** Variation of condition 2 (approved plans) and 4 (landscaping) of approved application 20/00599/FUL.

### 1. Town / Parish Council

Mrs Nicola Baker  
21.12.2020

Weeley Parish Council has no comment to make on this application.

### 2. Consultation Responses

ECC Highways Dept  
13.01.2021

The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on the submitted material. It is note that this is a variation condition 2, 4 and amended vehicular access design, 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. As per revised site layout drawing no. 692/1b and prior to occupation of the development, each road junction / 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 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 the first occupation of the development, each access junction with Mill Lane shall be constructed at right angles to the highway boundary and to the existing carriageway as shown in principle on the Block Plan, drawing no. 692/1b to a carriageway width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Highway Boundary and provided with an appropriate dropped kerb crossing of the footway/verge.

Reason: To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety and in accordance with Policy DM1 and DM6.

3. 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 each 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 in accordance with policy DM1.

4. Prior to first occupation of the development a size 5 vehicular turning facility 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.

5. No unbound material shall be used in the surface treatment of the vehicular access throughout.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

6. 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.

7. Prior to first occupation of the development vehicle parking shall be provided in accordance with the EPOA Parking Standards as shown in principle on site layout, drawing no. 692/1b constructed ready for use. The vehicle parking area and associated turning area shall be retained in the agreed form at all times.

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

8. All single garages should have a minimum internal measurement of 7m x 3m.

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and 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: 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](mailto:development.management@essexhighways.org) or by post to:

SMO1 – Development Management Team  
Ardleigh Depot,  
Harwich Road,  
Ardleigh,  
Colchester,  
CO7 7LT

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

16/01165/OUT	The construction of 6 No dwellings with associated garages and parking.	Approved	07.12.2016
17/00522/AGRIC	New detached agricultural barn for the secure storage of mainly machinery.	Withdrawn	21.04.2017
17/00986/AGRIC	New detached agricultural barn.	Determination	23.06.2017
19/01249/DETAIL	Construction of 6 no. dwellings with associated garages and parking.	Approved	25.10.2019
20/00599/FUL	Construction of 7 no. three bedroom detached bungalows with associated garages.	Approved	08.09.2020
20/01485/DISCON	Discharge of conditions 8 (illumination scheme), 9	Approved	18.12.2020

(materials), 16 (CMS) and 17  
(vehicle passing place) of approved  
application 20/00599/FUL.

#### **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

HG1 Housing Provision

HG6 Dwelling Size and Type

HG9 Private Amenity Space

HG14 Side Isolation

EN1 Landscape Character

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN6 Biodiversity

COM6 Provision of Recreational Open Space for New Residential Development

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

LP1 Housing Supply

LP4 Housing Layout

HP5 Open Space, Sports & Recreation Facilities

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

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) 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)**

### Site Description

The application site is a rectangular area of land lying to the south west side of Mill Lane between Bentley Road and Rectory Road within the settlement of Weeley Heath. The site measures approximately 0.49 hectares in size; it is relatively flat and is currently in agricultural use.

The application site lies outside of the Weeley Heath Settlement Development Boundary as defined within the adopted Tendring District Local Plan (2007) and abuts the extended settlement development boundary for Weeley Heath as defined within the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

### Description of Proposal

Full planning permission for the erection of 7 dwellings served by 2 access points (1 existing central field access between the new dwellings) was granted under planning application reference 20/00599/FUL.

This application seeks to vary the approved plans and approved landscaping plan to allow for some small amendments the existing central field access (also serving Plots 1 – 3).

### Assessment

The main consideration are;

- Principle of Development;
- Scale, Layout and Appearance;
- Residential Amenities;
- Trees and Landscaping;
- Highway Considerations and Parking Provision;
- Legal Obligations;
- Representations; and,
- Other Matters.

### Principle of Development

The principle of residential development on this site for 7 dwellings has been established by the approval reference 20/00599/FUL.

### Scale, Layout and Appearance

The variation seeks minor material amendments to the central field access and access to Plots 1-3.

The development as previously approved comprised a tarmac road finish with a footpath either side. This application seeks to vary the approval providing a block paved access with no footpath (shared surfacing).

Given the semi-rural location of the development the tarmac finish, although not excessive or overly prominent, was not ideal and the proposal amendment is considered a significant improvement to the appearance and quality of the development.

### Residential Amenities

The amendments to the central access will not result in any additional impact on the residential amenities of existing or future occupants.

### Trees and Landscaping

The main body of the application site is open grassland. The boundary with Mill Lane is demarcated by an established hedgerow comprising of primarily Hawthorn and Blackthorn. Within the hedgerow are several individual Oak trees that make a strong positive contribution to the character and appearance of the locality.

The amendments to the central access will not compromise any of the retained trees in the boundary hedgerow or alter the approved landscaping scheme.

### Highway Considerations and Parking Provision

Essex County Council Highway Authority has been consulted on the application and raise no objection to the revised proposal.

### Legal Obligations

A completed unilateral undertaking has been provided with application 20/00599/FUL to secure the financial contribution toward additional facilities at the play area in Clacton Road, Weeley in compliance with Policy COM6 of the adopted Tendring District Local Plan 2007 and in accordance with the Essex Coast Recreational disturbance Avoidance & Mitigation Strategy (RAMS) in compliance 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.

### Representations

Weeley Parish Council had no comment to make on the application.

No individual letters of representation or objection have been received.

### Conclusion

In the absence of any harm resulting from the amended scheme, the application is recommended for approval subject to the conditions attached to the original permission taking into account the approval date and the details approved under the related discharge of condition application reference 20/01485/DISCON.

## **6. Recommendation**

Approval - Full

## **7. Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from 08.09.2020.

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:

692/1 Rev B Proposed Site Layout (including boundary/fencing details)

692/2 Plot 1 - Proposed Floor Plan and Elevation

692/3 Plots 2 and 5 - Proposed Floor Plan and Elevations

692/4 Plot 3 - Proposed Floor Plan and Elevations

692/5 Plot 4 - Proposed Floor Plan and Elevations

692/6 Plot 6 - Proposed Floor Plan and Elevations

692/7 Plot 7 - Proposed Floor Plan and Elevations

692/8 Garages - Proposed Floor Plan and Elevations

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

- 3 The hereby approved development shall take place fully in accordance with the tree/hedgerow protection measures set out in the submitted Arboricultural Impact Assessment Reference No. TPSarb6180616 and the accompanying Tree Protection Plan together with the mitigation measures as set out within the Preliminary Ecological Appraisal Report Reference Number: 1845,EC/PEA/RF,KML/15-07-16/V1, Bat Detector Survey Report Reference Number: 1926,EC/BatAct/ZK,KL/08-09-16/V1 and Reptile Survey And Mitigation Strategy Report Reference Number: 1926,EC/REP/TC,KL/08-09-16/ V1.

Reason - To preserve and enhance the biodiversity of the site.

- 4 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details drawing number 692/1 Revision B Proposed Site Layout Plan 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 ensure the implementation and maintenance of the landscaping scheme in the interests of visual amenity and the character of the area.

- 5 Prior to occupation of the dwellings, the communal bin/refuse collection points within the site shall be provided in accordance with the approved details shown on drawing number 692/1 and thereafter be retained in the approved form.

Reason - To minimise the time spent by refuse collection vehicles parked within the highway so as to avoid congestion and inconvenience to users of the highway.

- 6 The removal of all vegetation shall only be carried out outside of the bird nesting season (March to August inclusive).

Reason - To ensure the protection of birds potentially nesting on site.

- 7 All new hardstanding and parking areas 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 or surface within the site.

Reason - In the interests of sustainable development and to ensure that run-off water is avoided to minimise the risk of surface water flooding.



- 8 The external lighting scheme shall be carried out in accordance with the details approved under 20/01485/DISCON unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure adequate safeguarding of the amenity of nearby properties, protected species and prevent the undesirable, disruptive and disturbing effects of light pollution.

- 9 The materials to be used in the construction of the development hereby approved shall be in accordance with those details approved under 20/01485/DISCON unless otherwise agreed in writing by the Local Planning Authority.

Reason - In the interests of visual amenity and the quality of the development.

- 10 As per drawing no. 692/1 Revision B and prior to occupation of the development, each road junction / 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 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.

- 11 Prior to the first occupation of the development, each access junction with Mill Lane shall be constructed at right angles to the highway boundary and to the existing carriageway as shown in principle on the Block Plan, drawing no. 692/1 to a carriageway width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Highway Boundary and provided with an appropriate dropped kerb crossing of the footway/verge.

Reason - To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway.

- 12 Prior to first occupation of the development a size 5 vehicular turning facilities shall be constructed for each private drive, 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.

- 13 No unbound material shall be used in the surface treatment of the vehicular access throughout.

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

- 14 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.

- 15 Prior to first occupation of the development the vehicle parking shown on approved Block Plan drawing no. 692/1 Revision B shall be constructed and made available ready for use. The vehicle parking area and associated turning area shall be retained in the agreed form at all times.

Reason - To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided.

- 16 The Construction Method Statement approved under 20/01485/DISCON shall be adhered to throughout the construction period for the development.

Reason - To ensure that on-street parking of construction vehicles in the adjoining streets does not occur, to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and to ensure working conditions are sympathetic to residential amenities.

- 17 Prior to occupation of the development, an informal vehicle passing place shall be provided within Mill Lane opposite the development with dimensions (within the area of land under the control of Essex County Council Highway Authority as shown on drawing reference 'Enquiry No. 2667553'):

- 1.2 metres wide x 8 metres long

Details and location shall be carried out in accordance with the details approved under 20/01485/DISCON unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure that vehicles can pass clear of the limits of the highway, in the interests 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.

### 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.

### Legal Agreement Informative - Open Space/Play Space Contribution

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 financial contribution in accordance with Policy COM6 of the adopted Tendring District Local Plan (2007) and Policy HP5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

### Waste Informative

Bin collection points to be of adequate size to accommodate 180L wheeled bin, 55 Ltr recycling boxes and 23Ltr food caddy per household. Private drive to be of hard standing construction suitable for the movement of wheeled bins.

### Highways Informatives

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](mailto: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.