

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	13 <sup>th</sup> Jan 2021
Planning Development Manager authorisation:	SCE	15.01.2021
Admin checks / despatch completed	CC	18.01.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	DB	18.01.2021

**Application:** 20/01631/FUL **Town / Parish:** Thorpe Le Soken Parish Council

**Applicant:** Mr and Mrs Harvey

**Address:** Llodia House New Town Road Thorpe Le Soken

**Development:** Removal of condition 4 (removal of permitted development rights) of the approved planning application 00/00461/FUL.

### 1. Town / Parish Council

No comments received

### 2. Consultation Responses

No comments received.

### 3. Planning History

00/00461/FUL	Demolition of dwelling and erection of 4 bedroom detached house	Approved	20.06.2001
02/00557/FUL	Revised application for 3 bedroom detached house, approval 00/00461/FUL	Refused	13.05.2002
20/01631/FUL	Removal of condition 4 (removal of permitted development rights) of the approved planning application 00/00461/FUL.	Current	
20/01790/FUL	Proposed rear extension.	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

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG9 Private Amenity Space

LP1 Housing Supply

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

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

PPL4 Biodiversity and Geodiversity

Local Planning Guidance

Essex Design Guide

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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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 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.

## **5. Officer Appraisal**

### Site Description

The property is a detached dwellinghouse, with construction having been completed in 2004. It is within the Settlement Boundary of Thorpe Le Soken.

### Description of Proposal

The application proposes amending the conditions attached to a permission including seeking minor material amendments (application under Section 73 TCPA 1990). Section 73(a) addresses Planning permission for development already carried out on an application made to a local planning authority, where the planning permission which may be granted includes planning permission for development carried out before the date of the application.

The condition which is under consideration is Condition 4 of planning approval 00/00461/FUL. The details of the condition are as such:-

*Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 1995, no garages, extensions or separate buildings shall be erected without express planning permission.*

*Reason - In order to ensure a satisfactory development in terms of visual amenity, privacy and private amenity open space*

All other matters pertaining to the 00/00461/FUL application remain as previously approved.

### Assessment

The main planning considerations are:

- Principle of Development;
- Layout, Scale and Appearance;
- Neighbouring Amenities;
- Highway Considerations;
- Financial Contributions - RAMS;
- Financial Contributions - COM6;
- Representations; and,
- Other Considerations.

## Principle of Development:

The site is located within the Development Boundary therefore there is no principle objection to the proposal, subject to the detailed considerations discussed below.

## Layout, Scale and Appearance:

The Government attach great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design.

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 scale, siting and design of the dwellinghouse itself has already been deemed appropriate and acceptable under 00/00461/FUL.

In considering whether removing the automatic right for a householder to extend their dwellinghouse under either Class A or E, the relevant key factors would be whether the development(s) would have a detrimental impact on either the host dwelling or wider streetscene in general.

Criteria must be adhered to in order for a development under Class A to automatically benefit from planning permission; the criterion typically relate to its external dimensions (height, depth etc) and its appearance inasmuch as requiring the external finishes to be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. As a consequence of the build-parameters set out in The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), an extension permissible under this class is unlikely to have a detrimental impact on either the host dwelling or wider streetscene in general.

Criteria must be adhered to in order for a development under Class E to automatically benefit from planning permission; the criterion typically relate a restriction of the footprint as a percentage of the overall plot size and its external dimensions (height) in relation to the common boundary. As a consequence of the build-parameters set out in The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), an outbuilding permissible under this class is unlikely to have a detrimental impact on either the host dwelling or wider streetscene in general.

## Amenities of Existing & Future Occupiers:

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 dwellinghouse itself was not considered to have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties under 00/00461/FUL.

In considering whether removing the automatic right for a householder to extend their dwellinghouse under either Class A or E, the relevant key factors would be whether the development(s) would have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. Eadulfnesa to the north-west is a two-storey dwellinghouse with a garage on the shared boundary. As a result of the depth of a single-storey

extension being limited to 4m (any greater requiring the submission of a Prior Approval application); this depth is unlikely to have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. Meadow View to the north-east is a single-storey bungalow; it is currently in an extremely poor state of repair and entirely uninhabitable. Whilst it is acknowledged that a planning application has been submitted for its replacement, this application has not yet been determined and little weight can be attributed to the suggested site layout that could arise from the application. The application site is located to the west of this dwelling, as such any development would have little impact on the daylight Meadow View receive to their rear-facing windows.

In regards to amenity; the existing rear amenity space is in the region of 212sqm; even if an outbuilding occupying the maximum footprint allowed (at 50%); this would still retain a garden size which exceeds the 100sqm required for a three bedroom property under Policy HG9.

Overall the proposal is considered to secure a good standard of amenity for all existing and future occupants of land and buildings

Highways:

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 Council's current Parking Standards require that for dwellings with 3 bedrooms a minimum of 2 parking spaces be provided per unit. The preferred bay size for cars is 5.5 metres by 2.9 metres and the minimum bay size is 5 metres by 2.5 metres.

The highways safety impacts and parking provision of the dwellinghouse itself have already been deemed appropriate and acceptable under 00/00461/FUL.

The removal of Condition 4 is unlikely to either generate or decrease the existing parking provision.

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) and Public Open Space:

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'.

Approved application 00/00461/FUL was for a replacement dwelling and the removal of the planning condition pertaining to permitted development rights would not have a significant effect or an adverse effect (alone or in combination) on a European designated site, as such no planning obligations in relation open space or recreational disturbance financial contributions are relevant.

Representations:

No representations have been received in response to the public consultation process.

### Conclusion

For the reasons set out above, varying the planning conditions attached to 00/00461/FUL to omit Condition 4 (the Removal of Classes A and E permitted development rights) is considered to represent a sustainable form of development in a location supported by national and local plan policy that will not result in any material environmental or residential harm that warrants refusal of planning permission.

**6. Recommendation**

Approval – Full

**7. Conditions / Reasons for Refusal**

- 1 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995, no dormer window or other form of addition or opening shall be constructed in the roof of any building hereby permitted without express planning permission.

Reason: In order to ensure a satisfactory development in terms of visual amenity and privacy.

- 2 The garage shall be kept available for vehicle parking purposes at all times.

Reason: To ensure that adequate vehicle parking facilities are retained on site.

**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.

<b>Are there any letters to be sent to applicant / agent with the decision?</b>		NO
<b>Are there any third parties to be informed of the decision?</b>		NO