

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	10 th Feb 2021
Planning Development Manager authorisation:	SCE	12.02.2021
Admin checks / despatch completed	CC	15.02.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	DB	15.02.2021

Application: 20/01771/FUL **Town / Parish:** Ardleigh Parish Council

Applicant: Mr & Mrs Harris

Address: Land rear of Mulberry Cottage Waterhouse Lane Ardleigh

Development: Change of use of agricultural land to garden.

1. Town / Parish Council

Clerk to Ardleigh Parish
Council
12.01.2021

The Parish Council would support this application.

2. Consultation Responses

Tree & Landscape Officer
08.01.2021

The change of use of a small area of land to the rear of the application site to extend the residential curtilage of the host property will not have a significant impact on either the character or appearance of the local landscape character.

3. Planning History

08/00878/FUL	Erection of single storey side extensions and two storey rear extension.	Approved	21.08.2008
18/01067/FUL	Proposed two storey front extension to form porch, and extension to existing study.	Approved	22.08.2018
20/01771/FUL	Change of use of agricultural land to garden.	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

HG16 Garden Extensions into the Countryside

EN1 Landscape Character

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

SPL3 Sustainable Design

PPL3 The Rural Landscape

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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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. In this latter regard, as of 26th January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.

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 has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26th January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have 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 application site comprises of a south east facing two storey detached dwelling known as "Mulberry Cottage." The dwelling is set back from the highway with planting along its front boundary and vehicular access and gates adjacent to the dwelling. The dwelling has been constructed from brick with a side extension finished in black timber.

Description of Proposal

The application relates to the land to the rear of the existing dwelling mostly comprising an undeveloped piece of open, grassed land measuring some 1,3064sqm and having a roughly-triangular shape. The application seeks full planning permission for the change of use of a small area of 472sqm of the southerly-most corner of the land to domestic garden. The resultant change of use would 'square off' the currently angled rear boundary. The proposed new garden would include a 7m deep extension to the right (north east), 37m wide and 18.7m deep extension to the left (south-west) boundaries. A 1.2m high post and rail fence is proposed to the perimeter of the new garden.

Assessment

The main considerations are;

- Policy Context;
- Visual Impact on the Countryside, and;
- Representations.

Policy Context:

Saved Policy EN1 of the adopted Tendring District Local Plan (2007) states that any development which would significantly harm landscape character or quality will not be permitted. Saved Policy HG16 of the adopted Tendring District Local Plan (2007) relates to garden extensions into the open countryside and states that these will only be permitted where there is no material visual harm to the surrounding countryside. These sentiments are echoed within Draft Policy PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Visual Impact upon the Countryside:

The application site lies outside the defined settlement boundary for the area and relates to a parcel of land approximately 0.04 hectares in size. The proposed new garden would include a 7m deep extension to the right (north east), 37m wide and 18.7m deep extension to the left (south-west) boundaries. A 1.2m high post and rail fence is proposed to the perimeter of the new garden.

The area of the proposed change of use is modest in comparison to the wider land, which has established mature planting along at least two of its three boundaries. The existing boundary treatment to the south-west boundary of Mulberry Cottage already comprises post and rail fencing and it is considered that, as none of the vegetation or trees is threatened by the proposal, the change of use will not materially alter the appearance of the site therefore having no impact or resultant harm to the landscape or rural appearance of this part of Tendring. A refusal is not justified in this instance.

Permitted development rights for outbuildings and further fencing/enclosures will be removed to maintain control over any future development of the land and any resultant impact upon the character and appearance of the countryside and long distance views from nearby roads.

The Council's Tree and Landscape Officer raises no objection on this basis.

Representations:

No letters have been received as a result of the publicity of the application.

Ardleigh Parish Council support the application.

Conclusion:

For the reasons set out above, the proposed change of use will not alter the appearance of the site and therefore will not result in any material harm to the landscape character. The application is therefore recommended for approval subject to conditions.

6. Recommendation

Approval - Full

7. Conditions / Reasons for Refusal

- 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: MCA/19/1; received 7th December 2020.

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

- 3 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Class E and Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 2016 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no provision of buildings, increases in height of the fence, new walls or other enclosures, swimming or other pool shall be erected except in accordance with drawings showing the design and siting of such building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of visual amenity and to preserve the landscape quality of the surrounding countryside.

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.

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