

## DELEGATED DECISION OFFICER REPORT

| AUTHORISATION   | INITIALS | DATE       |
|---|----------|------------|
| File completed and officer recommendation:                  | NW       | 23/02/2021 |
| Planning Development Manager authorisation:                 | TC       | 23/02/2021 |
| Admin checks / despatch completed                           | DB       | 25/02/2021 |
| Technician Final Checks/ Scanned / LC Notified / UU Emails: | CC       | 25.02.2021 |

**Application:** 21/00141/NMA **Town / Parish:** Lawford Parish Council

**Applicant:** Mr Steven Rose - Rose Builders

**Address:** Land North-East of The Avenue Lawford

**Development:** Non-Material Amendment to previously approved 20/01224/FUL - revised railing position.

### 1. Town / Parish Council

Not required

### 2. Consultation Responses

Not applicable.

### 3. Planning History

|                 |   |          |            |
|-----------------|---|----------|------------|
| 15/30021/PREAPP | Screening Opinion request for mixed use development including community building, school access with drop off and pick up area, village green, parking and residential development (360 dwellings).   |          | 06.02.2015 |
| 15/00876/OUT    | The erection of 360 houses (including Lawford Enterprise Trust Housing), with associated garages on 22.76ha with two vehicular access points, site roads, pedestrian and cycle routes, a new primary school access with off-road pickup and drop-off parking, a community building with public access toilets, a junior camping field, village green, public open space, structural landscaping and playground. | Approved | 13.04.2017 |
| 17/01527/DETAIL | Reserved matters application with details of appearance, landscaping, layout and scale pursuant to Phase  | Approved | 14.03.2018 |

|                 |  |          |            |
|-----------------|--|----------|------------|
|                 | 1 of outline permission (15/00876/OUT) including 120 dwellings, community building with parking, junior camping field, village green, structural landscaping and playground.   |          |            |
| 18/00304/DISCON | Discharge of conditions 3 (Masterplan), 7 (Construction Management Plan), 12 (Surface Water Drainage Scheme), 13 (Foul Water Strategy), 14 (Hard and Soft Landscaping), 16 (Ecological and Management Plan), 17 (Tree Protection Measures), 19 (Refuse/Storage points, Dwelling External Materials), 20 (construction Management Statement), 21 (Broadband Connection) and 23 (Water, Energy and Resource Efficiency Measures) of approved planning application 15/00876/OUT | Approved | 30.10.2018 |
| 18/00750/DISCON | Discharge of conditions 18 (Archaeology), 22 (Local Recruitment Strategy), 24 (Contamination) of approved planning application 15/00876/OUT.   | Approved | 02.07.2018 |
| 18/01094/DISCON | Discharge of Condition 19 (street lighting) of 15/00876/OUT.   | Approved | 17.08.2018 |
| 18/01548/DISCON | Discharge of condition 7) Construction Management Plan - to approved Planning Application 15/00876/OUT.  | Approved | 11.02.2019 |
| 19/00211/FUL    | Re-location of approved electrical substation (retrospective) and parking spaces.  | Approved | 07.06.2019 |
| 19/00274/DISCON | Discharge of Condition 18C (Archaeological Excavation Report) of application 15/00876/OUT.   | Approved | 28.03.2019 |
| 19/00900/DISCON | Discharge of Condition 14 (Landscaping) of application 15/00876/OUT.   | Approved | 12.07.2019 |
| 19/01475/DETAIL | Reserved matters application with details of appearance, landscaping, layout and scale pursuant to Phase 2 of outline permission (15/00876/OUT) including 140 dwellings, associated hardstanding, boundary treatments, landscaping and drainage.   | Approved | 09.07.2020 |

|                 |   |          |            |
|-----------------|---|----------|------------|
| 19/01498/NMA    | Non Material Amendment to approval of 15/00876/OUT for substitution of "Cornelia" house type for "Barbier" house type at plots 86-87, 90-93, 100-101. Proposed substitution of "Cornelia" house type for "Cornelia Variation" housetype at plots 54-57. Change of rear and side elevations, and internal layout to "Alexander" house type at plots 75-79.   |          | 04.11.2019 |
| 19/01698/DISCON | Discharge of condition 07 (construction Management Plan) 12 (Surface Water Drainage) 13 (Foul Water Strategy) 14 (soft Landscaping) 16 (Ecological mitigation scheme) 18 (Archaeology WSI) 19 (Refuse and external materials) 20 (construction Method Statement) and 24 (Remediation) of planning permission 15/00876/OUT.  | Approved | 29.05.2020 |
| 19/01751/DETAIL | Reserved matters application following outline permission 15/00876/OUT - Application to substitute "Cornelia" house type for "Barbier" house type at plots 86-87, 90-93, 100-101 as previously approved by 17/01527/DETAIL. Proposed substitution of "Cornelia" house type for "Cornelia Variation" housetype at plots 54-57. Change of rear and side elevations, and internal layout to "Alexander" house type at plots 75-79. | Approved | 28.08.2020 |
| 20/00178/NMA    | Non Material Amendment to approval of 15/00876/OUT for substitution of plots 39, 60 and 81 from "Braithewaite Variation" house type to "Braithewaite" house type. Hand plot 63.   | Approved | 25.03.2020 |
| 20/00458/OUT    | Variation of condition 9 of 15/00876/OUT amending the delivery requirement of the spine road before the 201st occupation.   | Current  |            |
| 20/00480/DETAIL | Reserved matters application with details of appearance, landscaping, layout and scale pursuant to Phase 3 of outline permission (15/00876/OUT) including 100 dwellings, associated hardstanding, boundary treatments, landscaping and drainage.  | Approved | 04.12.2020 |

|                 |  |          |            |
|-----------------|--|----------|------------|
| 20/00707/DISCON | Discharge of conditions (phase 3) 12 (Surface Water), 13 (Foul Water), 14 (Landscaping), 16 (Ecology Mitigation), 17 (Tree Protection), 19 (Refuse Collections and Materials Only), (phase 3 and 5) 18 (Archaeology) and 24 (Contamination) of planning permission 15/00876/OUT. | Approved | 18.06.2020 |
| 20/00773/DISCON | Discharge of conditions (phase 3) 12 (Surface Water), 13 (Foul Water), 14 (Landscaping), 16 (Ecology Mitigation), 17 (Tree Protection), 19 (Refuse Collections and Materials Only), (phase 3 and 5) 18 (Archaeology) and 24 (Contamination) of planning permission 15/00876/OUT. |          | 22.01.2021 |
| 20/01224/FUL    | Proposed children's nursery.   | Approved | 18.11.2020 |
| 20/01337/DISCON | Discharge of condition 17 (tree protection) for phase 2 of planning permission 15/00876/OUT.   | Approved | 07.12.2020 |
| 20/01597/DISCON | Discharge of conditions 7 (Construction Management Plan) and 20 (Construction Method Statement) of the approved planning application 15/00876/OUT.   | Current  |            |
| 20/01681/DISCON | Discharge of condition 14 (Construction Management Plan) of approved planning application 20/01224/FUL.  | Approved | 26.01.2021 |
| 21/00026/DISCON | Discharge of condition 18 (archaeology) of approved planning application 15/00876/OUT.   |          | 16.02.2021 |
| 21/00141/NMA    | Non-Material Amendment to previously approved 20/01224/FUL - revised railing position.   | Current  |            |
| 21/00212/DISCON | Discharge of condition 19 (street lighting) of approved planning application 15/00876/OUT.   | Current  |            |

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

Not Applicable.

#### **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 26<sup>th</sup> 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 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 has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26<sup>th</sup> 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.

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.

With the adoption of the modified Section 1 of the emerging Local Plan, the Councils 'objectively assessed housing need' of 550 dwellings per annum has been found 'sound' and there is no housing shortfall. The Council is able to report a significant surplus of housing land supply over the 5 year requirement, in the order of 6.5 years.

## **5. Officer Appraisal (including Site Description and Proposal)**

From 1st October 2009 a new provision under 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 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

The proposal comprises of the following amendment to planning approval 20/01224/FUL

- Revised railing position.

The imposition of condition 6 to the original approval, relating to visibility splays, requires that the boundary railings be set back at the main access point. This has knock-on effects for the remainder of the western boundary railings and requires them to also be set back. Specifically, for the short section to the north of the access the adjustment is needed to allow the proper functioning of the sliding vehicular gate. On the longer section to the south of the access the adjustment is required to avoid an awkward return detail and provide a less-complicated railing line, which will be more aesthetically pleasing.

The degree of change being proposed compared to the original approval would not be significant in terms of the overall appearance of the development. It is considered that any views of the proposal from the streetscene would be minimal and would not contravene the appearance and character of the nursery school or wider streetscene.

The level of outdoor play space is 158 sq m this remains the same as the originally approved level.

The changes will be not realistically be visible from the neighbouring properties and would not result in a loss of residential amenities to them.

#### 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 20/01224/FUL.

### **6. Recommendation**

Approval Non Material Amendment

### **7. Conditions / Reasons for Refusal**

1 The development hereby permitted shall be carried out in accordance with the following approved plans:

Lawpre iwd xx 00 dr a 2100 – Proposed Floor Plan  
Lawpre iwd xx 00 dr a 2000 – Block Plan

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

### **8. Informatives**

Not Applicable

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