

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AP	02/03/2021
Planning Development Manager authorisation:	TF	03/03/2021
Admin checks / despatch completed	ER	03/03/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	03.03.2021

**Application:** 20/01401/DETAIL                      **Town / Parish:** Brightlingsea Town Council

**Applicant:** Balfor Properties

**Address:** Land adjacent 15 Station Road Brightlingsea

**Development:** Reserved matters application for a detached dwelling.

### **1. Town / Parish Council**

Brightlingsea Town  
Council  
13.11.2020

Brightlingsea Town Council does not support this application at the moment, however if the comments made by the Heritage Officer are adhered to, the Council would support.

### **2. Consultation Responses**

Essex County Council  
Heritage  
09.11.2020

Built Heritage Advice pertaining to an application for: Reserved matters application for a detached dwelling.

The proposal is located within Brightlingsea Conservation Area and is in proximity to a number of properties that have potential to be considered non-designated heritage assets, particularly the building at number 9 Station Road which is visible on the first edition OS map.

Engagement in a Pre-Application discussion with the local authority was recommended in my letter of 24th April 2020 regarding 20/00050/OUT.

The approved application 20/00050/OUT sought permission for access only and as such this application covers all other aspects of the development at the site.

ECC Heritage would be unopposed in principle to a high quality, sympathetically designed detached dwelling three bed dwelling, that provides a bespoke response to the site. A scheme picking up more cues from the positively contributing character defining features and traditional materials of the Conservation Area would be supported here. The currently proposed dwelling does not achieve this. While natural slate is supported, the level of detail, design and proposed materials are not sympathetic or appropriate for a development within the Conservation Area.

Paragraph 200 of the NPPF encourages local planning authorities to look for opportunities for new development within conservation areas, to enhance or better reveal their significance, making a positive contribution to the heritage asset. The proposals do not in ECC Heritage opinion achieve this as outlined above.

These currently lacking proposals would fail to preserve or enhance the character of the Conservation Area and as such pose a degree of less than substantial harm to the significance designated heritage asset making paragraph 196 of the NPPF relevant here.

The application also fails to make any assessment of the proposal's potential impact on the setting of the non-designated heritage assets and Conservation Area, making paragraphs 189 of the NPPF relevant here.

ECC Heritage are unable to support this application in its current iteration.

ECC Heritage are happy to correspond with the agent to achieve a high quality sympathetic scheme.

Were the applicant to submit amendments to resolve the above identified issues, happy to provide updated comments.

To assess the impact and sympathetic massing of any amended proposals on the Conservation Area, the provision of street elevations showing the proposal in context would be beneficial here.

TDC Tree & Landscape  
Officer  
09.11.2020

Close to the north eastern corner of the application site there are two trees: an Apple Tree and a small Holly. The Holly adds little to the character of the area however the culinary Apple makes a reasonable contribution to the character and appearance of the area.

The Apple has been heavily reduced in the past; it has a congested crown and a poorly formed branch structure. It does not merit retention or protection by means of a Tree preservation Order.

Although the layout includes details of proposed new planting there appears to be additional scope for new planting to soften and enhance the appearance of the development and the public realm.

Therefore a low hedge should be planted on the boundary with Station Road and a new specimen tree planted either side of the proposed new vehicular access to the land.

ECC Highways Dept  
03.12.2020

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 indicated on drawing no. 15/SRB/3 and 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 the 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.

2. Prior to the occupation of the dwelling the internal layout shall be provided in principal with drawing number:

o Drawing: 15/SRB/3 Site plan, block plan, proposed floor plans and elevations

Reason: To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1.

3. No unbound materials shall be used in the surface treatment of either vehicular access within 6m of the highway boundary / throughout.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM1.

4. The dwelling shall not be occupied until such time as a car parking has been provided in principal with drawing 15/SRB/3. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and/or turning of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 & 8.

5. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

6. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

7. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the carriageways.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the carriageway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

8. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

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: Steps should be taken to ensure that the Developer provides enough turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

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 applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway. Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence.

4: 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.

TDC Building Control and Access Officer  
20.11.2020

No adverse comments at this time.

### **3. Planning History**

94/01475/OUT	Proposed dwelling and garage	Approved	21.02.1995
99/01551/OUT	Proposed dwelling and garage (Renewal of TEN/94/1475)	Approved	02.02.2000
04/02009/OUT	Proposed dwelling and garage	Approved	09.12.2004
15/01528/OUT	Proposed detached house.	Withdrawn	05.05.2016
16/01922/OUT	Proposed detached house.	Approved	17.01.2017
19/30025/PREAPP	Proposed two semi-detached properties. Option 1 - two parking spaces per dwelling or Option 2 - one parking space per dwelling with larger gardens.	Refused	20.03.2019
20/00050/OUT	Outline application for access only to be considered at this stage with all other matters to be reserved for	Approved	02.06.2020

a detached dwelling.

20/01401/DETAIL Reserved matters application for a Current  
detached dwelling.

#### **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
HG1	Housing Provision
HG7	Residential Densities
HG9	Private Amenity Space
HG14	Side Isolation
EN6A	Protected Species
EN11A	Protection of International Sites European Sites and RAMSAR Sites
COM6	Provision of Recreational Open Space for New Residential Development
TR1A	Development Affecting Highways
TR7	Vehicle Parking at New Development
EN17	Conservation Areas

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

LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL8	Conservation Areas
SPL1	Managing Growth
SPL3	Sustainable Design
HP5	Open Space, Sports & Recreation Facilities

*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. 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**

### Site Description

The application site is a an undeveloped parcel of land situated on the corner of Station Road and St James Close in Brightlingsea lying adjacent to the properties of 15 Station Road and 9 St James Close and located within the Conservation Area. The application site currently contains two old garage buildings, a smaller one with an existing access point onto Station Road, and a larger one with an access point onto St James Close. Both garages would be demolished to make way for the dwelling. There are two small trees on the site which are of no particular merit.

### Description of Proposal

The application seeks approval of the reserved matters, namely appearance, landscaping, layout and scale following outline permission for the erection of one dwelling with access under application reference 20/00050/OUT.

### Assessment

#### Scale, Layout and Appearance

The reserved matters application complies with the indicative layout of the outline application. The proposed single dwelling will sit immediately adjacent and in line with the property of 9 St James Close. The siting of the dwelling in this position allows an existing vehicular access to be utilised on the west of the application site and as approved under 20/00050/OUT and for an existing access serving St James Close to be permanently closed. The dwelling in this position also allows the corner of Station Road with St James Close to retain its open character by way of enclosing the

front and side gardens with metal railings which provide a superior finish to fencing and which are similar to the railings enclosing the gardens of the flats opposite. The Council's Tree and Landscape Officer had suggested a low hedge planted in front of the house on the boundary with Station Road however this would serve to further create a feeling of enclosure to the occupiers of the new house and narrow the appearance of Station Road further at this point where it already narrows. It would be beneficial to retain the open character on this particular corner. The Tree and Landscape Officer also recommended a specimen tree each side of the new driveway. Although this may improve the visual amenity, on balance it is unlikely to be practical or functional in such a confined space when considering light may be lost to the garden by overshadowing, the ongoing integrity of the new garden wall and neighbouring amenity. A condition will prevent the use of planting to create any form of hedging adjacent to the railings so that the open character remains and the openness of the conservation area in this location is protected. The siting of the dwelling also allows for the necessary vehicular access and parking facilities. Policy HG9 of the Tendring District Local Plan 2007 states that the private amenity space for a dwelling with three bedrooms or more should be a minimum of 100 square metres. The garden space falls just short of this requirement however the space is considered a usable shape and consistent with neighbouring garden sizes and therefore regarded as acceptable.

Essex County Council Place Services were consulted on the reserved matters application due to its position within the conservation area. Their comments were taken on board and an amended design along with a heritage statement was submitted which addresses the concerns raised. The house will be finished with a brick plinth, cream render and slate roofing. The windows which now take on a more vertical emphasis are now confirmed as being constructed and finished in painted white timber with lintel detailing. Full bay windows and chimneys also take cues from the immediate conservation area. The wall bounding the rear garden will match the brick used on the house with closed board fencing used to enclose the remainder of the back garden. The landscaping scheme is simple and minimal given the size of the site.

#### Residential Amenity

Policy QL11 of the Tendring District Local Plan 2007 states that 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers or nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Saved Policy HG14 of the adopted Tendring District Local Plan 2007 seeks to safeguard the amenities and aspect of adjoining residents and ensure that new development is appropriate in its setting and does not create a cramped appearance. The policy requires retention of appropriate open space between the dwelling and the side boundaries of the plot where the extension is over 4 metres in height, as in this case. As a guideline, Policy HG14 seeks a minimum distance of 1 metre to the side boundary. In this case there is a distance of at least 1 metre to the side boundary shared with 9 St James Close. The rear garden divides the proposed dwelling from the other next door neighbour of 15 Station Road.

The orientation of the buildings and careful placement of windows ensure that there is not a significant risk of overlooking or loss of privacy to the neighbouring properties.

#### Highway Safety

Essex County Council as the Highway Authority have been consulted on the application and has stated that they have no objections subject to a number of conditions.

In addition, Tendring District Local Plan 2007 requires that for dwellings with 2 or more bedrooms that a minimum of 2 off road car parking spaces are provided. The parking spaces should meet the Essex County Council Parking Standards where one space should measure 5.5 metres x 2.9 metres. The driveway meets the requirements for off road car parking.

#### Financial Contributions

This application is subject of a unilateral undertaking agreed under application 20/00050/OUT securing a proportionate financial contribution in line with Essex Coast RAMS requirements to ensure that this proposal will not have an adverse effect on the integrity of the nearby European sites from recreational disturbance, when considered 'in combination' with other development.

### Other Considerations

Brightlingsea Town Council confirmed that they did not support the application as originally submitted given the comments made by the Heritage Officer but would support it if his comments were adhered to. The amendments made to the proposal address the heritage concerns.

The Tendring District Council Building Control and Access Officer has no adverse comments at this time.

Two representations have been received which raise the following points:

1. The water main, waste water and sewage pipes to our property pass across the site
2. The vulnerability of the shallow foundations to our house
3. Closure of the east vehicular access and use of the dropped kerb by those on mobility scooters being blocked by parked cars
4. On-going issues of car parking and traffic movement in the immediate area

The issues raised in 1 and 2 above are generally civil issues that are not material planning considerations however the Party Wall etc Act 1996 may be relevant here. A building owner proposing to start work covered by the Act must give adjoining owners notice of their intentions in the way set down in the Act. Adjoining owners can agree or disagree with what is proposed. Where they disagree, the Act provides a mechanism for resolving disputes. The Act is separate from obtaining planning permission or building regulations approval.

In answer to points 3 and 4. The proposed use of the vehicular access onto Station Road and the closure of the existing access from St James Close was considered as part of outline planning application 20/00050/OUT and following consultation with Essex Highways was considered acceptable.

### Conclusion

In the absence of any material harm resulting from the development, the application is recommended for approval subject to necessary conditions.

## **6. Recommendation**

Approval - Reserved Matters/Detailed

## **7. Conditions**

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: Drg no. 15/SRB/3B, 15/SRB/4 and the amended landscape specification received on 27th January 2021.

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

- 2 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B, C and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no additions or alterations to the dwellings or their roofs, nor shall any buildings, enclosures, swimming or other pool be erected except in accordance with drawings showing the design and siting of such additions and/or building(s) which shall previously have been submitted to and approved, in writing, by the local planning authority.

Reason - It is necessary for the local planning authority to be able to consider and control further development in the interests of visual and residential amenities.

- 3 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved 'Landscape specification' received on 27th January 2021 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 adequate maintenance of the approved landscaping scheme for a period of five years in the interests of the character of the development.

- 4 No hedges, shrubs or trees shall be planted within 2 metres of the proposed metal railings, other than those specified within the landscapae specification received on 27th January 2021.

Reason - To ensure the north eastern and north western boundaries of the site remain open to protect the character of the conservation area.

- 5 Prior to occupation of the dwelling a 1.5 metre x 1.5 metre pedestrian visibility splay as shown on drawing number 15/SRB/3B, as measured from and along the highway boundary, shall be provided on both sides of the 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.

- 6 The dwelling shall not be occupied until such time as a car parking has been provided in accordance with drawing 15/SRB/3B. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and/or turning of vehicles related to the use of the development thereafter.

Reason - To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety

- 7 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

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

- 8 The existing access within St James Close shown on the existing site plan (DWG. 15/SRB/2 of application reference 20/00050/OUT) shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge/footway/cycleway/kerbing immediately the modified new access is brought into first beneficial use.

Reason - To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in 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 identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, 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.

#### Conditions Precedent

The applicant is reminded that this detailed planning consent is subject to conditions attached to the outline permission for this development reference 20/00050/OUT. Please refer to the outline planning permission to ensure full compliance with all conditions.

#### Highways Informatives

Steps should be taken to ensure that the Developer provides enough turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site in the interestes of highway safety.

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:

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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.

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