

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	04/03/2021
Planning Development Manager authorisation:	TF	04/03/2021
Admin checks / despatch completed	DB	05.03.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	05.03.2021

Application: 20/01634/FUL **Town / Parish:** Alresford Parish Council

Applicant: Miss Leanne Green

Address: Lee Oak Colchester Main Road Alresford

Development: Proposed erection of 1.8m fence and change of use from vegetation land to private amenity space (retrospective).

1. Town / Parish Council

Alresford Parish Council No objection to this application.
07.01.2021

2. Consultation Responses

ECC Highways Dept
04.03.2021
AMENDED COMMENTS

The information that was submitted in association with the application has been fully considered by the Highway Authority. It is noted that this was originally a retrospective planning application; however, following consultation with the applicant and the Planning Authority it has been resolved to re-align the fence further back away from the highway boundary and to provide a minimum 2.5 metre visibility splay setback for the neighbouring vehicle access to the north; therefore:

The Highway Authority does not object to the proposals as submitted and contained in the amended plan.

Informative:

1: 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 or by post to:

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

2: On the completion of the works associated with the application, 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.

ECC Highways Dept
27.01.2021
ORIGINAL COMMENTS

The information that was submitted in association with the application has been fully considered by the Highway Authority. The site is situated on a stretch of St Osyth Road that is subject to a 40-mph speed limit. It is noted that this is a retrospective application and it would appear the proposal does not impact on the visibility splay for the current vehicular access for the host dwelling. However, the Highway Authority feels that the applicant has not demonstrated sufficiently that the proposal is not encroaching onto the publicly maintainable highway or affecting the visibility splay of the neighbouring property to the north-west.

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

1. The applicant has failed to demonstrate adequate visibility splays for the existing vehicular access for the neighbouring property directly north west of the property boundary in accordance with the speed of the road, to the satisfaction of the Highway Authority. The lack of such visibility would result in an unacceptable degree of hazard to all highway users to the detriment of highway safety.

2. From the information provided there is no evidence that Highway Records were approached to establish the extent of the publicly maintainable highway before the fence was installed. There is some concern that the fence is located too close to the edge of the highway that could result in an unacceptable degree of hazard to all highway users to the detriment of highway safety.

Therefore, this proposal is contrary to the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: The applicant has not demonstrated that the existing visibility splays for 21 Colchester Main Road Alresford can be maintained in accordance with those required for the speed of the road for vehicles exiting and looking south-east. A minimum 2.4m set back from the edge of carriageway to the fence should be maintained at all times for the vehicle access. In addition, there is concern that the fence is located too close to the edge of carriageway and may be encroaching onto the publicly maintainable highway.

2: Prior to the installation of any fence/ boundary feature it is normally recommended that the applicant requests the Highway boundary information to establish the extent of the publicly maintainable highway and to avoid any highway encroachment. This information can be obtained from highwayrecords@essexhighways.org. Clearly if the applicant does commission additional work there is no guarantee that the required standards can be met or that the proposal will be acceptable to the Highway Authority.

3. Planning History

97/01596/FUL

(Lee-Oak, Colchester Road,
Alresford) Proposed dormer
window and doors

Approved

06.02.1998

02/01675/FUL	Detached dwelling and garage	Refused	30.10.2002
03/00497/TPO	T1. Fell 1 Oak on road frontage [TPO/97/22]	Approved	08.05.2003
05/00221/TPO	To cut back branches to various trees	Refused	07.03.2005
07/00759/FUL	Retention of stable block.	Withdrawn	16.11.2007
07/00789/TPO	1 No. Oak - coppice. 2 No. Oak - fell	Approved	12.06.2007
07/01890/FUL	Replacement of the existing access to the site by creation of a new vehicular access equidistant along the frontage of the site for the purpose of enhancing visibility and improving highway safety.	Refused	14.03.2008
08/00503/FUL	The retention of the existing stable block on the site.	Refused	21.05.2008
08/00592/FUL	Replacement of the existing access to the site by creation of a new vehicular access equidistant along the frontage of the site for the purpose of enhancing visibility and improving highway safety.	Refused	25.06.2008
08/01171/FUL	Proposed tank store.	Approved	10.10.2008
13/00544/FUL	Proposed dwelling house and construction of vehicular access.	Refused	09.07.2013

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

EN1 Landscape Character

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

TR1A Development Affecting Highways

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

SPL3 Sustainable Design

PPL3 The Rural Landscape

CP1 Sustainable Transport and Accessibility

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 (including Site Description and Proposal)

Site Description

The site is located on the north eastern side of Colchester Main Road, to the west of Alresford. The land lies wholly outside the defined settlement limits of the saved and emerging Local Plans. The area is semi-rural in character with some sporadic residential development.

The site is a long, narrow plot with open farmland beyond the protected Oak trees along the rear boundary. The application relates to the property known as Lee Oak sited to the south eastern boundary of the site with the parking area of 21 Colchester Main Road to the north western boundary.

Description of Proposal

The application seeks full planning permission for the change of use of the land to private amenity space serving Lee Oak together with the erection of a 1.8 metre close boarded fence.

A 1.8 metre close boarded fence has already been erected on the site. However, the development is unacceptable in its current form for the reasons discussed below.

The application is being considered in relation to the amended plan provided via email on 3rd March 2021 (set back siting with Dark Oak finish).

Assessment

The main considerations in this instance are:

- Visual Impact and Impact on Protected Trees;
- Highway Safety; and,
- Representations.

Visual Impact and Impact on Protected Trees

Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007), as echoed within Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017), seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.

Also of particular relevance in this instance is Saved Policy HG16 of the adopted Tendring District Local Plan (2007). Policy HG16 states that the extension of a domestic garden into the countryside will only be permitted if (officer response in italics):

- (i) there is no material visual harm to the surrounding countryside;

The area of land subject to the change of use is approximately 0.06 of a hectare. The site lies outside of the defined settlement development boundary for Alresford and is therefore classed as countryside. However, the site is located adjacent to linear residential development to both sides and opposite. The site could not be described as 'open' countryside nor does it form part of a wider field. There is already a natural defined enclosure along its eastern rear boundary made up of trees and hedging with the open countryside beyond. Therefore, the use of the land as residential garden does not require the division or unnatural severance of an open field. The site relates more closely to the built development than the open countryside. The residential character in the immediate locality is made up of dwellings with side gardens with several examples of high close-boarded fences or walls enclosing their gardens, therefore dominating the street scene.

The amended plan shows the fence positioned further back from the highway verge with a dark brown painted finish. The new position and painted finish together with the natural growth of the highway verge vegetation will soften the visual impact of the fence.

- (ii) there would be no material loss of existing trees, shrubs or hedgerows or damage to other habitats of nature conservation value;

The application site is affected by Tendring District Council Tree Preservation Order 97/22/TPO that affords formal legal protection to a row of Oak and Holly situated on the eastern boundary of the application site. The erection (re-location) of the boundary fence will not compromise the viability or long term retention of the preserved trees. Clearance of the overgrowth on the site has already taken place.

- (iii) it would not result in a material loss of best and most versatile agricultural land, or otherwise seriously interfere with a neighbouring agricultural enterprise; and

For the reasons set out in (i) above, the development does not contravene this criteria.

- (iv) it would have no material adverse effect on the amenities of neighbouring properties.

The site and proposed fence is located a sufficient distance from neighbouring properties. No loss of daylight, sunlight or harm to other residential amenities of neighbouring residents will result. Functionality, in relation to access is addressed below.

Due to the character of the area and locality, the loss of such a small area of land, directly adjacent to existing dwellings and fences is not considered to significantly harm the character or appearance of the area, nor will it result in any wider landscape harm.

Highway Safety

Paragraph 108 of the National Planning Policy Framework 2019 seeks to ensure that safe and suitable access can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be permitted if, amongst other things, the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The site is situated on a stretch of St Osyth Road that is subject to a 40-mph speed limit. Although the fence as erected does not impact on the visibility splay for the current vehicular access for the host dwelling, its position does encroach onto the publicly maintainable highway and blocks the visibility splays for the existing vehicular access for the neighbouring property directly north west of the property boundary. The location of the fence is too close to the edge of the highway could result in an unacceptable degree of hazard to all highway users to the detriment of highway safety. Furthermore, the lack of visibility splays for the neighbouring property would also result in an unacceptable detrimental impact on highway safety. On this basis, Essex County Council Highway Authority raises an objection to the retention of the fence in its current location.

The amended scheme proposes the re-positioning of the fence further back from the highway thus delivering the required visibility splays for the adjacent property and maintaining an appropriate relationship with the publicly maintainable highway verge.

Essex County Council Highway Authority do not raise an objection to the amended scheme.

Representations

Alresford Parish Council have no objection to this application.

One letter of support has been received stating that this type of fencing is functional rather than pretty, but is consistent with that of many of the neighbouring properties on this stretch of B1029 and overall is an enhancement to the public realm in comparison to the overgrown, unkempt condition of the land previously.

Conclusions

For the reasons set out above, in the absence of any significant harm, on balance, the revised development is considered acceptable subject to conditions.

6. Recommendation

Approval - Full

7. Conditions

- 1 Within 3 months from the date of this permission, the location of the existing fence shall be repositioned in precise accordance with the amended drawing received via email on 3rd March 2021 and retained in this approved position unless otherwise agreed in writing by the Local Planning Authority.

Reason - In the interests of visual amenity and highway safety.

- 2 Within 3 months from the date of this permission, the relocated fence hereby approved shall be painted 'Dark Oak' in its entirety, in accordance with the colour details provided via email on 3rd March 2021 and maintained in this approved form in perpetuity.

Reason - In the interests of visual amenity.

- 3 Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A 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), no provision of fences, walls or other enclosures shall be erected along the eastern, rear boundary of the site except in complete accordance with details which shall previously have been approved, in writing, by the Local Planning Authority following the submission of a planning application for such development.

Reason - In the interests of visual amenity and the safeguarding of the protected tree.

- 4 Notwithstanding the provisions of Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no outbuildings, enclosures, swimming or other pools shall be erected except in complete accordance with details which shall previously have been approved, in writing, by the Local Planning Authority following the submission of a planning application for such development.

Reason - In the interests of visual amenity in this semi-rural location.

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.

Highways Informatives

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