

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AP	04/03/2021
Planning Development Manager authorisation:	TF	08/03/2021
Admin checks / despatch completed	CC	09.03.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	DB	09.03.2021

Application: 20/01753/OUT **Town / Parish:** Lawford Parish Council
Applicant: Mr and Mrs KE and AS Day
Address: 46 Harwich Road Lawford Manningtree
Development: Proposed erection of one dwelling.

1. Town / Parish Council

Lawford Parish Council
27.01.2021

Council strongly objects to this application. Similar applications have been approved but following Section 1 of the Local Plan being recommended for acceptance in the coming days. Section 2 will follow quickly. The proposed development will be outside the village envelope and applications approved prior to the Local Plan being agreed will not have set a precedent.

- i) This application will be outside the village envelope following acceptance of the Local Plan
- ii) It is designated as Agricultural land
- iii) Plan is speculative
- iv) This adds further pressure on the old sewer, as has those already approved. The overflow from land settlement is excessive in wet weather, the main is 12" at the Land Settlement sites, reduces to a 9" main at Garden City and into a 6" main by Dedham Road. If the pumping Station stops for any reason the overflow goes into the stream by the footpath causing flooding and severe issues.

2. Consultation Responses

ECC Highways Dept
10.02.2021

The information that was submitted in association with the application has been fully considered by the Highway Authority. The proposed dwelling will be situated within the existing 40-mph speed limit and provided with a separate vehicular access from the host dwelling. It has been indicated that there is an existing informal bus stop where the proposed new vehicle access is to be located; this has been raised with Passenger Transport who have confirmed that there are no formal or informal stops on either side of the road at this point. Passenger Transport have also confirmed that bus stops are spaced at 400m walking distance and the distance is just under 400m to this location from the previous stop. Based on the submitted information, it appears that the host and proposed dwellings will retain adequate off-street parking and turning, therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. Prior to occupation of the development, the road junction / access at its centre line shall be provided with a minimum clear to

ground visibility splay with dimensions of 2.4 metres by 120 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

2. 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.

3. Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

4. No unbound materials shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1.

5. Prior to occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 4.5 metres (equivalent to 5 low kerbs), shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.

6. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

7. The proposed development shall not be occupied until such time as a domestic car parking for a minimum of two vehicles has been provided in accordance with the Parking Standards, details to be agreed with the Local Planning Authority. The agreed car parking shall be retained at all times for such purpose.

Reason: To ensure that on street parking of vehicles in the adjoining streets/roads does not occur and that appropriate parking is provided in accordance with Policy DM8.

8. 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.

9. 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.

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: 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 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.

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

TDC UU Open Spaces
01.02.2021

Response from Public Realm
Open Space & Play

Application Details

Application No: 20/01753/OUT

Site Address: 46 Harwich Road Lawford Essex

Description of Development: Proposed erection of one dwelling

Current Position

There is currently a deficit of -3.44 hectares of equipped play/open space in Lawford.

Recommendation

No contribution is being requested from Open Spaces on this occasion.

TDC Tree & Landscape
Officer
06.01.2021

The application site currently forms part of the residential curtilage of the host property and is set to grass.

The eastern boundary is demarcated by an established hedgerow comprising indigenous species including Hawthorn and Blackthorn. This feature will not be adversely affected by the development proposal.

There are no other significant trees or vegetation on the application site

If planning permission is likely to be granted then details of soft landscaping to soften screen and enhance the appearance of any development should be secured as a reserved matter.

3. Planning History

06/00785/FUL	Erection of a steel framed garage for storage of caravan (existing shed and plastic tunnel to be demolished).	Refused	05.07.2006
20/01038/OUT	Proposed erection of one dwelling.	Approved	19.10.2020
20/01753/OUT	Proposed erection of one dwelling.	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019
National Planning Practice Guidance

Tendring District Local Plan 2007

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
EN1	Landscape Character
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

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
SPL1	Managing Growth
SPL3	Sustainable Design
HP5	Open Space, Sports & Recreation Facilities
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.

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

Proposal

This application seeks permission for a detached dwelling in outline form with all matters reserved, apart from the access.

The application site is the side garden of 46 Harwich Road and measures approximately 0.1 hectares. The site is situated on the southern side of Harwich Road, opposite the Foxash Social Club.

Planning permission was granted in October 2020 for an identical scheme with all matters reserved (reference: 20/01038/OUT).

The layout, scale, appearance and landscaping is reserved for subsequent approval as part of a detailed application.

Assessment

The main considerations in this instance are;

- Principle of Development
- Scale, Layout, Character, Appearance and Landscaping
- Access, Parking and Highway Safety
- Residential Amenities
- Financial Contributions - Open Space
- Financial Contribution – Recreational Disturbance
- Other considerations

Principle of development

The application site lies outside of a Settlement Development Boundary as defined within the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Following formal adoption of Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26th January 2021, Section 1 became part of the development plan and carries full weight in the determination of planning applications. 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 policies for the delivery of housing are therefore considered up-to-date which would normally lead to the application being determined in accordance with the development plan as per paragraph 11 c) of the NPPF.

However, Paragraph 12 of the NPPF confirms that *'the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'*

In this case, the previously approved outline application of 20/01038/OUT is a material consideration and has established the principle of development on the application site which is considered acceptable. Further detailed considerations relevant to this proposal are set out below.

Scale, Layout, Character, Appearance and Landscaping

Saved Policies QL9, QL10 and QL11 of the adopted Tendring District Local Plan (2007) seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward within Policy SPL3 of the emerging Local Plan.

The application is in outline form only, with all matters except access reserved for a future application. As such, no elevation or layout plans have been provided. That notwithstanding, it is considered that the site is capable of accommodating one dwelling, with all of the necessary parking and private amenity requirements. The design of the dwelling should be in keeping with the current street scene.

Policy EN1 of the Saved Local Plan states the quality of the district's landscape and its distinctive local character will be protected and, where possible, enhanced. Any development which would significantly harm landscape character or quality will not be permitted. The sentiments of this policy are carried forward within Emerging Local Plan Policy PPL3.

Landscaping will be secured at the reserved matters stage to secure details of soft landscaping to soften, screen and enhance the appearance of the development. The application site is set to grass and does not contain any trees or other significant vegetation.

The application site currently forms part of the residential curtilage of the host property and is set to grass. The eastern boundary is demarcated by an established hedgerow comprising indigenous species including Hawthorn and Blackthorn. This feature will not be adversely affected by the development proposal. There are no other significant trees or vegetation on the application site. Soft landscaping will be required when submitting the reserved matters application to help soften screen and enhance the appearance of the development.

Access, Parking and Highway Safety

Paragraph 108 of the National Planning Policy Framework 2019 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 and 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.

Essex County Council Highways have been consulted on this application and have stated that the proposed dwelling will be situated within the existing 40-mph speed limit and provided with a separate vehicular access from the host dwelling. It has been indicated that there is an existing informal bus stop where the proposed new vehicle access is to be located; this has been raised with Passenger Transport who have confirmed that there are no formal or informal stops on either side of the road at this point. Passenger Transport have also confirmed that bus stops are spaced at 400m walking distance and the distance is just under 400m to this location from the previous stop. It appears that the host and proposed dwellings will retain adequate off-street parking and turning. It is therefore considered that the proposed development is acceptable in terms of highway safety subject to conditions relating to the following; visibility splays, vehicular turning facility, no unbound materials, construction and width of access, and no discharge of surface water. The recommended conditions relating to car parking spaces, new boundary planting and cycle parking will not be imposed at this stage but will be reconsidered on submission of the detailed reserved matters proposal.

Essex County Council Highways on previous application 20/01038/OUT mentioned that there was a telephone box situated in front of the site and that the cable vault was still in situ. It is noted that a telegraph pole also lies at the front of the site. These are not a planning considerations and is a matter for the applicant to resolve.

Furthermore, the Council's Adopted Parking Standards require that for a dwelling with two or more bedrooms that a minimum of two parking spaces are required. Parking spaces should measure 5.5m x 2.9 metres and garages, if being relied on to provide a parking space, should measure 7m x 3m internally. The submitted plans do not indicate the number of bedrooms, but it is considered there is sufficient space within the site to provide the necessary parking for one dwelling as well as sufficient space retained for off road car parking to serve the property of 46 Harwich Road.

Residential Amenities

Appearance and layout are reserved for later consideration. It is considered that the proposed dwelling could be accommodated on the site with no material loss of amenity in terms of loss of light, outlook or privacy. It is therefore considered that sufficient spacing between properties could be achieved to result in a development that would not harm the amenities of neighbours.

Financial Contributions - Open Space

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

No contribution is being requested from Open Spaces on this occasion.

Financial Contribution – Recreational Disturbance

Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.

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'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 3900 metres from Stour and Orwell Estuaries RAMSAR and SPA.

New housing development within the Zol would be likely to increase the number of recreational visitors to the Stour and Orwell Estuaries and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A completed unilateral undertaking has been received to secure the financial contribution required to mitigate against any recreational impact from the new dwelling and to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Other Considerations

Lawford Parish Council object to the application for the following reasons:

- a) The site is outside the village envelope
- b) The land is designated as agricultural
- c) The plan is speculative
- d) Pressure on the old sewer

Point a) has been addressed in the report. The applicant has exercised their rights in submitting a planning application which is assessed on its individual merits in answer to points b) and c). Point d) is not a planning consideration.

One objection has been received which raises the following concerns:

1. Tarmac layby used as a request stop in daily use

2. No mention of second cable vault and telegraph pole
3. Ignores the ECC Highways recommendation that the drive should be widened for the new and existing dwelling
4. The applicants state that the existing drive already has lots of traffic and is increased by the approval of two dwellings at 45 Harwich road. A separate access has been approved for these and there will be no extra traffic on the shared drive which will remain the same as it has for the past years.
5. The application has not demonstrated that there is a clear 240m visibility splay from the proposed driveway access.

Points 1 and 2 have been addressed in the report. Points 3 and 4 – this is a new planning application for outline permission for one dwelling considering a new access to the site and therefore the existing driveway is not considered as part of this application. Point 5 – a 240 metre visibility splay is not required. The submitted plans show a 2.4 metres by 120 metres visibility splay which is considered acceptable.

No other representations have been received.

Conclusion

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

6. Recommendation

Approval - Outline

7. Conditions

- 1 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

- 2 No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the appearance, landscaping, layout and scale have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - The application as submitted does not provide sufficient particulars for consideration of these details.

- 3 The development hereby permitted shall be begun before the expiration of 2 years from the date of approval of the last of the Reserved Matters to be approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 4 Prior to occupation of the development, the road junction/access at its centre line shall be provided with a minimum clear to ground visibility splay with dimensions of 2.4 metres by 120 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction/access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason - To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety.

- 5 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.

- 6 Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced, and maintained free from obstruction within the site at all times for that sole purpose.

Reason - To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

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

Reason - To ensure that loose materials are not brought out onto the highway, in the interests of highway safety

- 8 Prior to occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 4.5 metres (equivalent to 5 low kerbs), shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.

Reason - to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.

- 9 There shall be no discharge of surface water onto the Highway.

Reason - To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

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.

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.

Highways Informatives

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,
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2: 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.

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

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