

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	ML	03/03/2021
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: 21/00036/OUT **Town / Parish:** Mistley Parish Council

Applicant: Miss Clara Spicer - CALA Homes (NHC)

Address: Land to The East of New Road Mistley

Development: Variation of condition 3 (approved Plans) of approved planning application 19/01956/OUT to vary the approved access plan (drawing no. 0964-F01 rev D).

1. Town / Parish Council

Mistley Parish Council No comments received

2. Consultation Responses

ECC Highways Dept
01.03.2021

It is noted that this application concerns variation of Condition 3, whereby the position of the proposed access has been relocated approximately 1.5m to the north in order to ensure that visibility splays appropriate to the design speed of New Road can be achieved, in particular, for the south-west side of the proposed junction, therefore:

The Highway Authority does not object to the proposals as submitted and in accordance with the revised drawings submitted with this application.

3. Planning History

17/00004/OUT	Erection of 67 dwellings together with formation of access.	Refused (Allowed on appeal)	07.04.2017
18/01767/OUT	Variation of Condition 4 approved plans 0964-F01 rev D, and 1628 URB XX XX GA 90 001 Rev H) of APP/P1560/W/17/3176089, to provide a re-worked layout to provide wider roads to improve emergency access and to incorporate a mix of housing types including detached dwellings, semi-detached properties and apartments.	Refused	12.04.2019
19/00978/OUT	Variation of condition 4 of	Refused	01.11.2019

	application 17/00004/OUT (approved at appeal APP/P1560/W/17/3176089) to amend the approved layout.		
19/01043/DISCON	Discharge of condition 17 (Bus Stop Upgrades) of application 19/01956/OUT	Approved	17.04.2020
19/01956/OUT	Variation of condition 4 (Approved Plans) to amend to approved layout of application 17/00004/OUT (Approved on appeal APP/P1560/W/17/3176089).	Approved	16.04.2020
20/00104/DETAIL	Approval of Reserved Matters and clearance of conditions 1 and 4 of application 19/01956/OUT relating to the erection of 67 dwellings together with the formation of an access.	Approved	24.07.2020
20/00953/DISCON	Discharge of conditions 8 (tree retention and protection), 10 (biodiversity management plan) and 12 (Construction Method Statement) for approved application 19/01956/OUT.	Approved	12.08.2020
20/01037/DISCON	Discharge of condition 3 (materials) for approved application 20/00104/DETAIL.	Approved	23.09.2020
20/01234/OUT	Variation of condition 13 of approved application 19/01956/OUT to change the visibility splay dimensions to 2.25m x 43m.	Refused	08.12.2020
20/01265/ADV	Proposed aluminium frame 'Welcome' monolith sign and a 'Coming Soon' stack sign.	Approved	09.11.2020
20/01381/DISCON	Discharge of conditions 14 (estate roads and footways), 24 (surface water), 25 (flood scheme) and 26 (maintenance plan) for approved application 19/01956/OUT.	Approved	14.01.2021
21/00036/OUT	Variation of condition 3 (approved Plans) of approved planning application 19/01956/OUT to vary the approved access plan (drawing no. 0964-F01 rev D).	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1	Spatial Strategy
QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
QL12	Planning Obligations
HG1	Housing Provision
HG3A	Mixed Communities
HG4	Affordable Housing in New Developments
HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
COM2	Community Safety
COM6	Provision of Recreational Open Space for New Residential Development
COM21	Light Pollution
COM23	General Pollution
COM24	Health Care Provision
COM26	Contributions to Education Provision
COM29	Utilities
COM30	Electricity Supply
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN3	Coastal Protection Belt
EN6	Biodiversity
EN6A	Protected Species

EN6B	Habitat Creation
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN12	Design and Access Statements
EN13	Sustainable Drainage Systems
EN17	Conservation Areas
EN23	Development Within the Proximity of a Listed Building
EN29	Archaeology
TR1A	Development Affecting Highways
TR10A	General Aviation
TR2	Travel Plans
TR3A	Provision for Walking
TR5	Provision for Cycling
TR6	Provision for Public Transport Use
TR7	Vehicle Parking at New Development

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

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP2	Community Facilities
HP3	Green Infrastructure
HP4	Safeguarded Local Greenspace
HP5	Open Space, Sports & Recreation Facilities
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
LP5	Affordable and Council Housing
PPL1	Development and Flood Risk
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity

PPL5	Water Conservation, Drainage and Sewerage
PPL7	Archaeology
PPL8	Conservation Areas
PPL9	Listed Buildings
CP1	Sustainable Transport and Accessibility
CP3	Improving the Telecommunications Network

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

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 (including Site Description and Proposal)

Site Description

The application site comprises a triangular area of open land situated on the east side of New Road behind the frontage properties and including an undeveloped plot of land through the frontage housing which provides the access into the proposed development from New Road. The site extends to 2.93 hectares in size and is situated within the Mistley Conservation Area.

There is residential development to the north and west of the site, which is divided from the wider countryside to the south by an access road/public footpath, Green Lane. To the north east is an area of grassland and wooded areas, comprised of the gardens associated with private dwellings and recreational areas, beyond which is the line of the railway.

The site is bounded by a hedge with small trees along the boundary with Green Lane, and by a hedge with large trees and groups of trees which border a pathway along the northeast boundary. To the northwest, the boundary is formed by the rear boundaries of the houses along New Road, with a mixture of timber fences, hedges and trees.

The site has planning permission for 67 dwellings and construction work has now commenced.

Planning History

This application relates to a site with planning permission for 67 dwellings. The original outline permission was granted at appeal and subsequent s73 applications have been submitted to revise the layout approved at that appeal (Ref - 19/01956/OUT). The subsequent reserved matters application was approved in 2020 under planning reference 20/00104/DETAIL.

A previous application (Planning reference - 20/01234/OUT) sought to vary Condition 13 of 19/01956/OUT to reduce the required visibility splays afforded to the site access due to the position of a neighbour's wall within the splay. That application was refused following objections received from ECC-Highways.

Proposal

This application proposes the variation of Condition 3 (Approved Plans) of planning permission 19/01956/OUT.

In particular this application seeks to vary the approved access plans (drawing no. 0964-FO1 rev D), in order to be able to satisfy Condition 13 of the permission. Condition 13 is worded as follows:

Prior to occupation of the development, the road junction at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4m by 43m in both directions, as measured from and along the nearside edge of the carriageway. The vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of any obstruction at all times.

Submitted drawings highlight that in order to achieve the correct visibility splay of 2.4m by 43m in both directions, the access needs to be relocated 1.5m to the north.

Appraisal

Highway Impacts

Paragraph 102 of the NPPF requires Councils, when making decisions should ensure:

- a) appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

The position of the proposed access has been relocated approximately 1.5m to the north in order to ensure that visibility splays appropriate to the design speed of New Road can be achieved. The revised position of the access is shown on the attached drawing (no.18179.TOPO.1010.05 rev A). The layout of the access is based on the layout of the approved access, including 8m radii, 5.5m wide carriageway and 2 x 2m wide footways. The width of the New Road carriageway passing the site is unaffected by the design of the access.

ECC-Highways have reviewed the application and the revised access plans and confirm that they have no objections to the development.

Residential Amenities

The relocation of the access 1.5m to the north would not adversely impact upon existing residents to the north. The access at its closest point would still retain a gap of 40m to the side elevation of the property to the north. This in conjunction with the presence of mature vegetation on the shared boundary ensures any impact in terms of noise and disturbance would be minimal.

Legal Obligations/Conditions

As this application seeks to vary the outline permission it follows that the legal agreement previously completed will need to be the subject of a deed of variation to refer to the details of the new planning permission. Consequently, a deed of variation has been prepared by the applicant that stipulates the following obligations, namely;

- 30% affordable housing provision (20 units - siting and tenure to be confirmed at DETAIL stage);
- RAMS Contribution; and
- Education contributions.

These obligations remain the same as previously secured at the appeal stage.

All conditions have been re-applied where relevant and updated where previously approved via condition discharge applications. Furthermore, a final archaeology report has been provided and agreed by ECC-Place Services removing the need to re-apply the archaeology conditions.

Other Considerations

Mistley Parish Council supports the application.

No further letters of representation have been received.

6. Recommendation

Approval

7. Conditions

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

- 18179.TOPO.101.05 Rev A
- 18179.TOPO.101.06 Rev A
- AA7718-2002 REV-24 - Site Layout.

Reason - For the avoidance of doubt.

- 2 Any trees or plants which die, are removed, or become seriously damaged or diseased within a period of 5 years from the completion of the development, shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority gives approval in writing to any variation.

Reason - To ensure the effective implementation of the approved landscaping scheme, in the interests of visual amenity.

- 3 A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved, in writing, by the Local Planning Authority prior to the first occupation of the development. The landscape management plan shall be carried out as approved in accordance with the details and timescales in the plan.

Reason - To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

- 4 All areas of hardstanding shall be constructed using porous materials laid on a permeable base. All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in phases to be agreed in writing as part of that scheme by the Local Planning Authority. Prior to the occupation of each dwelling, the hardstanding associated with that dwelling shall be fully laid out.

Reason - In the interests of sustainable development and to ensure that run-off water is avoided to minimise the risk of surface water flooding.

- 5 All tree/hedge protection measures during the construction phase shall be carried out in full accordance with the details contained in the submitted document titled 'Tree Survey Report' as prepared by RGS Arboricultural Consultants (June 2019) as approved under planning reference 20/00953/DISCON.

Reason - To protect existing trees/vegetation on site during construction in the interests of visual amenity.

- 6 No external lighting shall be installed until details of the illumination scheme have been submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details.

Reason - In the interests of amenity to reduce the impact of night time illumination on the character of the area.

- 7 The development shall be carried out in accordance with the biodiversity management plan information contained in the submitted document titled 'Biodiversity Enhancement & Management Plan' as prepared by Ethos Environmental Plan (June 2020), as approved under planning reference 20/00953/DISCON.

Reason - To preserve and enhance the biodiversity of the site.

- 8 No materials, goods or articles of any description shall be stacked, stored or placed at any time within the limits of the spread of any of the existing trees, shrubs or hedges. No works involving alterations in ground levels, or the digging of trenches, or excavations of any kind, (including the laying or installation of drains, pipes, cables or other services) shall be carried out within the extent of the spread of any existing trees, shrubs and hedges unless the express consent in writing of the Local Planning Authority has previously been obtained. No machinery of any kind shall be used or operated within the extent of the spread of the existing trees, shrubs, or hedges.

Reason - To ensure the mature trees/hedges within the site are safeguarded during construction and retained in the interests of visual amenity.

- 9 The development shall be constructed in full accordance with the submitted document titled 'Construction Management Statement' and associated drawing no. AA7718-2002 13, as prepared by Cala Homes, as approved under planning reference 20/00953/DISCON.

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

- 10 Prior to occupation of the development, the road junction at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4m by 43m in both directions, as measured from and along the nearside edge of the carriageway (as shown on the approved drawing 18179.TOPO.101.06 REV A). The vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of any obstruction at all times.

Reason - To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

- 11 The development shall be carried out in accordance with the estate road details approved under planning reference 20/01381/DISCON and as shown on the following plans;

- PA00167-381-C-SW-SEC A
- PA00167-382-C-SW-SEC A
- PA00167-383-C-SW-SEC A
- PA00167-331-C-SW-GA A
- PA00167-332-C-SW-GA A
- PA00167-333-C-SW-GA A
- PA00167-334-C-SW-GA A
- PA00167-308-C-SW-DET B
- PA00167-301-C-SW-LEV A
- PA00167-302-C-SW-LEV A
- PA00167-303-C-SW-LEV B
- PA00167-304-C-SW-LEV B
- PA00167-356-C-SW-DR D

Reason - To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

- 12 All parking spaces and turning areas within the site shall be provided prior to the first occupation of the approved dwellings and retained for the sole purpose of the parking and turning of vehicles thereafter.

Reason - To ensure off-street parking is provided at a level commensurate with the requirements of the current parking standards and to ensure there are sufficient turning facilities for all types of vehicles attracted by the development.

- 13 Prior to first occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for

sustainable transport to include 6 one-day travel vouchers for use with the relevant local public transport operator.

Reason - In the interests of reducing the need to travel by car and promoting sustainable development and transport.

- 14 Prior to the occupation of the development the bus stop upgrades, as shown on drawing no. 5352-1005 P2 and approved under planning reference 19/01043/DISCON, shall be completed in accordance with those approved details.

Reason - To promote the use of sustainable transport modes.

- 15 No vehicular or cycle access to the development shall be taken from Green Lane.

Reason - In the interests of safeguarding pedestrian use of Green Lane and in the interests of visual amenity.

- 16 Prior to first occupation of the proposed apartment blocks, communal recycling/bin/refuse collection points shall be provided within 15m of the carriageways or adjacent to the carriageways and additionally clear of all visibility splays at accesses and retained thereafter.

Reason - To minimise the length of time a refuse vehicle is required to wait within and cause obstruction of the highway, in the interests of highway safety.

- 17 Prior to the occupation of the proposed dwellings and apartments details of the provision for the storage of bicycles sufficient for all occupants of that dwelling of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason - To promote the use of sustainable means of transport.

- 18 The surface water drainage scheme, off-site flood mitigation measures and surface water drainage maintenance shall be carried out in full accordance with the details approved under planning reference 20/01381/DISCON, these details being outlined in the following documents;

- PA00671-302-C-REP Drainage Calculations
- PA00167-351-C-SW-DR A
- PA00167-352-C-SW-DR A
- PA00167-353-C-SW-DR D
- PA00167-354-C-SW-DR D
- PA00167-341-C-SW-GA A
- PA00167-342-C-SW-GA A
- PA00167-343-C-SW-GA A
- PA00167-344-C-SW-GA B
- PA00167-311-C-SW-DR A
- PA00167-312-C-SW-DR A
- PA00167-313-C-SW-DR A
- PA00167-314-C-SW-DR A
- PA00167-316-C-SW-DR-B
- PA00167-318-C-SW-DR-B
- SUDS MAINTENANCE AND MANAGEMENT PLAN (REPORT REF: PA00671-303-C-REP,
STRUCTA PROJECT NUMBER: 5352, REVISION B - 10 DECEMBER 2020)

Reason - To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure the effective operation of SuDS features over the lifetime of

the development. To provide mitigation of any environmental harm which may be caused to the local water environment.

- 19 The applicant or any successor in title shall maintain yearly logs of maintenance which shall be carried out in accordance with any approved Maintenance Plan. These shall be available for inspection upon the submission of a written request by the Local Planning Authority.

Reason - To ensure the SuDS are maintained for the lifetime of the development as outlined in the approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

8. **Informatives**

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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