

DELEGATED DECISION OFFICER REPORT

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

Application: 21/00066/FUL **Town / Parish:** Frinton & Walton Town Council

Applicant: Mrs Ilsley

Address: 63 Wittonwood Road Frinton On Sea Essex

Development: Sub-division of site to form an additional 2 bed dwelling.

1. Town / Parish Council

Frinton and Walton
Town Council

Recommends refusal – too cramped.

2. Consultation Responses

ECC Highways Dept
11.02.2021

The information that was submitted in association with the application has been fully considered by the Highway Authority. Due to the current COVID-19 restrictions no site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated April 2009 and previous application 19/01370/FUL. The proposal is situated within an existing 30-mph speed limit near the local school; the properties in this area do not have vehicular turning areas; the proposals provide adequate off-street parking for the existing and proposed dwelling 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 new dwelling 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 new vehicular access for 63 Wittonwood Road and the existing vehicular access being retained for the new dwelling. 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. No unbound material shall be used in the surface treatment of the new or existing vehicular access or driveway.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

3. Prior to occupation of the new dwelling the vehicular access and the new vehicular access for 63 Wittonwood Road shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of each access at its junction with the highway shall not be more than 4.5 metres (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.

4. 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.

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. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres and each vehicular parking space which is bounded by walls or other construction shall have minimum dimensions of 3.4 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

7. The Cycle / Powered Two-wheeler parking shall be provided for the host and new dwelling in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

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

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.

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.

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

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.

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: Steps should be taken to ensure that the Developer provides sufficient 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.

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.

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.

3. Planning History

02/01846/FUL	Retention of garage with store over	Approved	30.10.2002
19/01370/FUL	Sub-division of site to form an additional dwelling, and associated works including new vehicular access to 63 Wittonwood Road.	Refused	19.03.2020

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG9 Private Amenity Space

HG14 Side Isolation

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

CP1 Sustainable Transport and Accessibility

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL3 Sustainable Design

Local Planning Guidance

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 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 is land to the south of Number 63 Wittonwood Road, which falls within the parish of Frinton-on-Sea. The site currently forms part of the garden area for 63 Wittonwood Road, and also includes a single storey detached garage. The surrounding area is heavily urbanised, with residential dwellings to all sides. Approximately 20m to the south-west is Frinton-on-Sea Primary School, while the Frinton Town Centre is approximately 300m to the east.

The site falls within the Settlement Development Boundary for Frinton-on-Sea within both the Adopted Tendring Local Plan 2007 and within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Planning History

Planning permission was refused under planning reference 19/01370/FUL for the sub division of number 63 Wittonwood Road, to form an additional dwelling with associated works including a new vehicular access to number 63 Wittonwood Road. The application was refused as it was considered out of character with the locality, contrary to Policy HG9 of the Tendring District Local Plan 2007 to ensure sufficient private amenity space is provided and due to the lack of a unilateral undertaking towards RAM's.

The amended plans demonstrate that the number of bedrooms have been reduced from a three bedroom dwelling to a two bedroom dwelling.

Description of Proposal

This application seeks full planning permission for the erection of one detached dwelling, which will be two storey and served by two bedrooms. The proposal also sees the creation of an access point to serve 63 Wittonwood Road.

Assessment

1. Principle of Development

The site is situated within the defined settlement limits of Frinton-on-Sea as defined by both the adopted Tendring District Local Plan (2007) and emerging Publication Draft (2017), and therefore the principle of residential development in this location is acceptable subject to the detailed considerations as set out below.

2. Layout, Design and Appearance

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 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 in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The application site is located to the rear of number 63 Wittonwood Road which is a prominent corner plot between Wittonwood Road and School Road. The existing garden is well planted with a range of small trees, shrubs and conifers, which make a pleasant contribution to both the character and appearance of the locality. The proposed dwelling, and associated works including a new access point, parking bays and loss of existing vegetation, will combine to result in a harmful visual addition to the street scene. Moreover, in terms of the design of the dwelling itself, it is of a bland appearance with no features to help break up the overall bulk. It is therefore considered that the proposed dwelling would be a harmful addition to the street scene that neither preserves nor enhances the areas existing character or appearance.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of two bedrooms or more should be a minimum of 75 square metres. Within the preamble of this policy it further defines private amenity space as a private outdoor sitting area not overlooked by adjacent or opposite living rooms or outdoor sitting areas.

The plans submitted indicates that there is approximately 32 square metres to the rear of the proposed dwelling and the remainder of the proposed garden area, located to the side and front of the dwelling equates to approximately 88 square metres. However, the private amenity area for the proposed dwelling would include areas to the side and front of the dwelling, which will be visible from the street scene and are therefore not considered private. Given this, the proposal has failed to demonstrate it can meet the minimum private amenity area provision, which further emphasises its cramped and overdeveloped appearance.

It is noted that under planning permission 18/00547/FUL, a single dwelling was approved in a similar corner plot location between School Road and Fifth Avenue to the south. While it is acknowledged there are similarities with this current scheme, the Officer within their report explained there was not such a strong building line and that "The proposed dwelling incorporates features such as a forward projecting gable element, a mixture of materials, a false chimney and stone window sill details. These ensure that the individual design of the dwelling is of a good standard but also ensures that the development will appear in keeping within the street scene picking up characteristics of existing properties." Given this, and that sufficient private amenity areas were provided, it is considered there are key differences between the two schemes that ensures this earlier approval does not result in a precedent being set that the current application should also be recommended for approval.

3. Impact upon neighbours

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

The proposed dwelling is located in close proximity to a number of residential dwellings, notably 61 and 63 Wittonwood Road to the north, and 1 School Road to the south.

With regards to the impacts to 61 and 63 Wittonwood Road, there is an approximate 7.7 metre separation distance, which reduces the dwellings overall prominence. Further it is noted that the proposed there are no first floor side elevation windows that can directly overlook, while rear elevation windows would only have partial views of rear garden areas, and are obscure glazed in any case.

While the dwelling is sited close to 1 School Road, there is a separation distance of 4.8 metres, which reduces the impacts in terms of loss of light or the dwelling appearing significantly imposing. With regards to overlooking the rear elevation first floor windows are obscure glazed, and while there is a first floor side elevation window serving a bedroom, due to the neighbouring dwelling being set back, there will only be minimal views into the garden area.

Therefore, while there is a degree of harm to neighbouring amenities, on balance this is not considered to be significant enough to warrant a reason for refusal.

4. Highway Considerations and Parking Provision

Essex County Council as the Highways Authority have been consulted on this application and have stated that due to the current COVID-19 restrictions no site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated April 2009 and previous application 19/01370/FUL. The proposal is situated within an existing 30-mph speed limit near the local school; the properties in this area do not have vehicular turning areas; the proposals provide adequate off-street parking for the existing and proposed dwelling. The Highway Authority

therefore have no objections subject to conditions relating to pedestrian visibility splays, no unbound materials, vehicular access, no discharge of water, new planting being set back 1m from the boundary, vehicular parking spaces, cycle parking, residential travel pack and storage of building materials. The vehicular parking spaces will not be imposed as sufficient parking is demonstrated on the site for the proposed and number 63 Wittonwood Road. The cycle parking condition will not be imposed as there is sufficient parking the rear of the dwelling to accommodate bicycle storage. The residential travel pack will not be imposed as this is for a minor application for one dwelling and the storage of building materials will be imposed as an informative.

Adopted Car Parking Standards state that for a dwelling with two bedrooms or more, provision should be made for a minimum of two parking spaces measuring 5.5m x 2.9m. The submitted plans demonstrate that this is achievable for both the existing and proposed dwellings.

5. Trees and Landscaping

The main body of the application site forms part of the residential curtilage of the host property. The garden is well planted with a range of small trees, shrubs and conifers and the site boundary adjacent to Fifth Avenue is demarcated by an attractive boundary hedge feature comprising Euonymus, Viburnum, Pyracantha and Holly.

On the boundary with Fifth Avenue there is a small Flowering Cherry (*Prunus cerasifera*) and an established Apple is situated in the main body of the application site. Collectively the small trees, shrubs and other associated planting makes a pleasant contribution to both the character and appearance of the locality however none of the trees meet the criteria under which they merit formal legal protection by means of a Tree Preservation Order.

The shrubs situated within the curtilage of the application site do not fall within the scope of legislation under which they could be formally legally protected.

A soft landscaping condition could be imposed to soften and enhance the appearance of the development.

6. 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".

There is currently a deficit of '14.12 hectares of equipped play in Frinton, Walton & Kirby. No contribution is being requested from Open Spaces on this occasion.

7. Habitat Regulations Assessment

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 one dwelling on a site that lies within the Zone of Influence (Zol) being approximately 2,200 metres from the Hamford Water Ramsar and SPA. Since the development is for five dwellings, the number of additional recreational visitors would be limited and the likely effects on Hamford Water from the proposed development alone may not be significant. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Hamford Water 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 proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As

submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to 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

Frinton and Walton Town Council have recommend refusal - too cramped.

There have been no other letters of representation received.

6. Recommendation

Refusal - Full

7. Reasons for Refusal

- 1 Paragraph 127 of the National Planning Policy Framework (2019) states planning policies and decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, and are sympathetic to local character and history, including the surrounding built environment and landscape setting.

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 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 in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The application site is located to the rear of number 63 Wittonwood Road, which is a prominent corner plot between Wittonwood Road and School Road. The existing garden is well planted with a range of small trees, shrubs and conifers, which make a pleasant contribution to both the character and appearance of the locality. The proposed dwelling, and associated works including a new access point, parking bays and loss of existing vegetation, will combine to result in a harmful visual addition to the street scene. Moreover, in terms of the design of the dwelling itself, it is of a bland appearance with no features to help break up the overall bulk.

It is therefore considered that the proposed dwelling would be a harmful addition to the street scene that neither preserves nor enhances the areas existing character or appearance, and thereby fails to adhere to the above local and national policies.

- 2 Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of two bedrooms or more should be a minimum of 75 square metres. Within the preamble of this policy it further defines private amenity space as a private outdoor sitting area not overlooked by adjacent or opposite living rooms or outdoor sitting areas.

The plans submitted indicates that there is approximately 32 square metres to the rear of the proposed dwelling and the remainder of the proposed garden area, located to the side and front of the dwelling equates to approximately 88 square metres. However, the private amenity area for the proposed dwelling would include areas to the side and front of the dwelling, which will be visible from the street scene and are therefore not considered private. Given this, the proposal has failed to demonstrate it can meet the minimum private amenity area provision, which further emphasises its cramped and overdeveloped appearance.

- 3 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 one dwelling on a site that lies within the Zone of Influence (Zol) being approximately 2,200 metres from the Hamford Water Ramsar and SPA. Since the development is for one dwelling, the number of additional recreational visitors would be limited and the likely effects on Hamford Water from the proposed development alone may not be significant. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Hamford Water 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 proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to 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.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

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