

## **DELEGATED DECISION OFFICER REPORT**

<b>AUTHORISATION</b>	<b>INITIALS</b>	<b>DATE</b>
File completed and officer recommendation:	ER	25/03/2021
Planning Development Manager authorisation:	SCE	31.03.2021
Admin checks / despatch completed	DB	01.04.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	01.04.2021

**Application:** 21/00088/FUL **Town / Parish:** Frinton & Walton Town Council

**Applicant:** Mr Scott & Mrs Kay Robinson

**Address:** 10 Bushell Way Kirby Cross Frinton On Sea

**Development:** Proposed repositioning and alteration of boundary treatment to create additional private amenity space to serve the occupants of 10 Bushell Way.

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

FRINTON & WALTON  
TOWN COUNCIL  
19.02.2022

Recommends: APPROVAL

### **2. Consultation Responses**

ECC Highways Dept  
03.03.2021  
**Initial Comments**

I have taken a look at the proposals put forward for this application and although in principal I don't have an issue but would like to request some modifications in relation to the following area highlighted below:

- To the east of the proposed fence/ hedge there is a pedestrian walkway that brings you out into Bushell Way. As a result I would like to see a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, retained for pedestrians using this route.
- With any new boundary planting it would need to be planted a minimum of 1 metre back from the highway boundary (in this case, back of footway) and any visibility splay. This is 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; with any fence located behind the hedge.
- For the vehicular access serving nos 8 and 10 at its centre line shall be provided with a clear to ground visibility splay with minimum dimensions of 2.4 metres by 43 metres to the south east, as measured from and along the nearside edge of the carriageway and retained free of obstruction above 1 metre at all times.

ECC Highways Dept  
25/03/2021  
**Amended comments following receipt of amended plans**

The information that was submitted in association with the application has been fully considered by the Highway Authority. 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.

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

1. There should be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between users of the shared private access and the public highway in the interests of highway safety in accordance with policy DM1.

2. For the shared private drive, 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 and 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. 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.

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](mailto: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. Planning History**

18/30121/PREAPP	Repositioning of garden fence to incorporate side garden into rear garden.	Refused	03.08.2018
21/00088/FUL	Proposed repositioning and alteration of boundary treatment to create additional private amenity space to serve the occupants of 10 Bushell Way.	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

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SPL3 Sustainable Design

#### **Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. In this latter regard, as of 26<sup>th</sup> January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10<sup>th</sup> December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.

The Council has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26<sup>th</sup> January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.

Where emerging policies are particularly relevant to a planning application and can be given weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices.

## **5. Officer Appraisal (including Site Description and Proposal)**

### Application Site

The application site comprises of a two storey detached dwelling accessed via a shared access with a number of other properties off of Bushall Way. The dwelling is brick in construction and has an existing garage and driveway. As a result of the existing dwellings positioning it is its side elevation which faces the highway with a small section of land within the site abutting the pavement which is currently gravelled. Situated along this prevalent side boundary is an existing boundary wall.

### Proposal

Proposed repositioning and alteration of boundary treatment to create additional private amenity space to serve the occupants of 10 Bushell Way.

The plans have subsequently been amended showing that the proposed fence will be set in from the sites boundary by 1m with a box hedge in front. These amendments follow on from concerns over the prominence of the fencing within the area along with comments/ suggestions received from consultees.

### Assessment

#### Design, Appearance and Landscaping

The local area comprises of a mixture of designed dwellings with associated driveways, many of which have open frontages with only a small few sites having boundary walling or fencing sited along their boundaries. Of those sites which do have visible boundary treatments running along their boundaries many of which are stepped in from their respective boundaries or screened by planting which softens their appearance limiting their impact to the area.

The plans show that the proposed fence will replace the existing wall currently in situ and will be erected 1m away from the boundary allowing for the provision of an extension to the existing private amenity space to the rear of the house.

The amended siting of the proposal 1m back from the boundary will prevent the proposal from appearing as a prominently harmful feature within the streetscene and the use of a planting will further aid in softening its appearance.

The proposed fence would be wooden with a small trellis design feature to the top. The height of the fence would be staggered starting at 1m increasing to 2.1m in height; this stagger is considered to reduce its impact in such a prevalent location.

The councils Tree and Landscape Officer has provided no objections to the proposal in its amended siting away from the boundary. He has however raised concerns that the box hedging would not be enough to screen the proposal and for this reason a condition will be imposed upon the permission requesting additional information on soft landscaping.

Whilst the proposal will be a noticeable change within the streetscene as a result of the reasons detailed above it is considered acceptable in terms of visual amenity and unlikely to have a significant harmful impact to the appearance and character of the existing dwelling and streetscene.

### Highway Safety

As the proposal will be constructed close to the highway the Essex County Council highways team have been consulted and have raised no objections subject to conditions preventing obstructions to visibility splays, visibility splay sizes and siting of planting.

As a result of its amended set back from the boundary together with staggered height it is considered that the proposal would not contravene highway safety.

#### Impact to Neighbours

The proposal is a minor alteration to the site and as a result of its siting and nature would not result in a loss of residential amenities to the neighbouring properties.

#### Other Considerations

Frinton and Walton Town Council have no objections to the proposal.

There have been no letters of representation received in conjunction with this application.

#### Conclusion

In the absence of material harm resulting from the proposed development the application is recommended for approval.

### **6. Recommendation**

Approval - Full

### **7. Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

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

Sheet 5 - 713 - Proposed Elevation

Sheet 4 - 713 - Rev 3 - Amended Proposed Site Plan

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

- 3 There should be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage and retained free of any obstruction at all times.

Reason - To provide adequate inter-visibility between users of the shared private access and the public highway in the interests of highway safety.

- 4 For the shared private drive, 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 and 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.

- 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.

- 6 Prior to the commencement of any above ground works, a scheme of soft landscaping works for the planting proposed in between the flank wall of the garage and the highway

shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction."

Reason - To enhance the visual impact of the proposed works and reduce the urbanising impact of development in this countryside location.

- 7 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To enhance the visual impact of the proposed works and reduce the urbanising impact of development in this countryside location.

## **8. Informatives**

Highways 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.

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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.

### **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.