

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	6 th April 2021
Planning Development Manager authorisation:	SCE	07.04.2021
Admin checks / despatch completed	ER	07.04.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	07.04.2021

Application: 21/00084/FUL **Town / Parish:** Frinton & Walton Town Council
Applicant: Carolyn and Linda Fletton
Address: 116 Kirby Road Walton On The Naze Essex
Development: Proposed erection of a detached 4 bed dwelling with associated parking.

1. Town / Parish Council

Frinton & Walton Town
Council
19.02.2021

Recommends: APPROVAL

2. Consultation Responses

ECC Highways Dept

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 2019. It is noted that the site is located within a 30-mph speed limit with good visibility and adequate parking and turning proposed for the host and new dwelling.

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

Tree & Landscape Officer
02.02.2021

The majority on the front garden of the application site is set out as a driveway.

On the eastern boundary of the front garden there is a scrubby hedge containing two large trees.

The tree closest to the highway is an ivy covered Ash close to the front boundary of the property. Set back into the land, on the same boundary, is a Willow that has been reduced to height of approximately 4-5m.

Whilst both trees make a moderate contribution to the character and appearance of the locality neither has such amenity value that they merit formal legal protection by means of a tree preservation order.

Should planning permission be likely to be granted then a condition should be attached to secure details of soft landscaping. Soft

landscaping should aim to soften, screen and enhance the appearance of the development.

The planting should include specimen trees in the areas either side of the proposed vehicular access.

UU Open Spaces
23.02.2021

There is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton & Kirby. .

Although there is a deficit of play and open space in Walton, it is not felt that this development would impact the current play facilities. Should there be further development in the area a contribution may become necessary.

3. Planning History

21/00084/FUL Proposed erection of a detached 4 Current
bed dwelling with associated
parking.

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL11 Environmental Impacts and Compatibility of Uses

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG9 Private Amenity Space

HG14 Side Isolation

LP1 Housing Supply

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP5 Open Space, Sports & Recreation Facilities
- PPL4 Biodiversity and Geodiversity

Local Planning Guidance

Essex Design Guide

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 site currently forms part of the large side garden associated with 116 Kirby Road. The existing dwelling is a 4 bedroom house, of a design from the 1950's, slightly older than most along this section of Kirby Road. Part of the front garden has been hard-surfaced and used for the parking of motor vehicles. Access is via a crossover in the centre of the frontage. To the eastern side is a detached garage with an access to an array of stables and outbuildings at the rear, with the land extending down to the Backwaters.

The majority of properties in the vicinity are houses, although the majority date from the 1970's and are typical larger detached houses from that period. The dwelling immediately adjacent, at No. 114 Kirby Road, is a detached house with a chalet style element to the side adjacent to the application site. This contains a high level window on the dormer.

Description of Proposal

The side garden of No.116 extends to 12.7m in width. In common with many other infill sites within the vicinity, this proposal is to construct a detached two storey house. The existing garage would be demolished thereby enabling access to be retained for the stables and other outbuildings at the rear.

The detached dwelling would have a ridge height in the region of 7.4m and eaves around 5.3m; its footprint would be 7.7m wide and 13.4m deep and two off-street spaces are given to both the proposed and the host dwelling.

Assessment

The main planning considerations are:

- Principle of Development;
- Layout, Scale and Appearance;
- Neighbouring Amenities;
- Highway Considerations;
- Financial Contributions - RAMS;
- Financial Contributions - COM6 and;
- Representations

1. Principle of Development:

The site is located within the Development Boundary therefore there is no principle objection to the proposal, subject to the detailed considerations discussed below.

2. Layout, Scale and Appearance:

The Government attach great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design.

Saved Policies QL9, QL10 and QL11 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Emerging Policy SP1 reflects these considerations.

In terms of design, the approach is to follow the format of the 1970's style of housing in the locality with a projecting gable and wide horizontal windows. This will reflect and respect the character and form of other housing which predominates nearby, rather than the large 2 ~ storey replacement dwelling allowed by the authority at No.104 Kirby Road, which is obviously in distinct contrast to its immediate neighbours. The external finish will be in red brick with brown concrete tiles, to complement the appearance of the host property.

The District Planning Authority considers that the side spaces created between buildings are of the utmost importance in areas of medium and low density housing. In such areas, development up to a common side boundary normally appears cramped, often creating an unbalanced terraced effect. Indeed, in many locations even the minimum one metre side isolation space between a dwelling and the side boundary of the site, as specified in the policy, would appear unsatisfactory visually. In such instances larger side isolation space will be required.

A further reason for maintaining an appropriate side isolation space is to ensure that the impact of residential development on the amenities of adjoining residents is of an acceptable level, without new structures or buildings appearing too close and over dominant, or resulting in overlooking and serious loss of aspect, or daylight. Moreover, if an adjoining plot is undeveloped, to allow buildings up to the common boundary could prevent the satisfactory development of the adjoining site at a later date and prejudice the amenities of future neighbours.

Policy H14 requires that proposals for new dwellings or extensions to dwellings over 4 metres in height, will be required to retain appropriate open space between the dwelling and the side boundaries of the plot to ensure that new development is appropriate in its setting, does not create a cramped appearance, to safeguard the amenities and aspect of adjoining residents and, in the case of undeveloped adjacent plots their satisfactory development at a later stage.

The dwelling would be positioned in align with the existing properties to either side, consistent with the form and layout of development in the vicinity. It will be seen as merely infilling a space between dwellings without affecting neighbouring properties or the appearance of the area. It makes more effective use of a large garden which is excessive in terms of the scale of the existing house. While not necessarily of an individual bespoke design, it reflects the form and character of the area. It would be sited 4m from the west (side) boundary and 1m from the east (side) boundary.

In regards to soft landscaping; the majority on the front garden of the application site is set out as a driveway. On the eastern boundary of the front garden there is a scrubby hedge containing two large trees. The tree closest to the highway is an ivy covered Ash close to the front boundary of the property. Set back into the land, on the same boundary, is a Willow that has been reduced to height of approximately 4-5m. Whilst both trees make a moderate contribution to the character and appearance of the locality neither has such amenity value that they merit formal legal protection by means of a tree preservation order. It is considered prudent to attach a planning condition to any forthcoming permission to secure details of proposed soft landscaping; soft landscaping should aim to soften, screen and enhance the appearance of the development and the planting should include specimen trees in the areas either side of the proposed vehicular access.

3. Amenities of Existing & Future Occupiers:

The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, 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).

Different dwelling sizes and types provide accommodation for individuals and families with a wide range of expectations and need for private amenity space. "Private amenity space" comprises a private outdoor sitting area not overlooked by adjacent or opposite living rooms or outdoor sitting areas. It will therefore not necessarily always amount to the entire rear garden. Apart from its private recreation function, private amenity space is also important in achieving well laid out development.

Private amenity space shall be provided to new dwellings in accordance with the following standards:- a three or more bedroom house - a minimum of 100 square metres; the plans indicate that this standard can easily be achieved for both the host and the proposed dwelling.

The proposed dwelling would be sited east of 116 Kirby Road and west of 116 Kirby Road. In regards to effect of the development on No. 116; the proposed dwelling would extend approximately 3.7m beyond their rear building line, notwithstanding this approximately 4m separation distances exist, no first floor side facing windows are proposed in the dwelling's west elevation. In regards to the effect of the development on No. 114; the proposed dwelling would finish in-line with their existing rear building line and be 1m away from their boundary, the two first-floor side-facing windows proposed serve bathrooms and would be obscurely-glazed.

Overall the proposal is considered to secure a good standard of amenity for future occupants of the proposed dwelling.

4. Highways

Paragraph 108 of the NPPF 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. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

In addition to an integral garage, the proposal will include two car parking spaces for the proposed dwelling together with two additional spaces for the existing property. A shared turning area will ensure that all vehicles can leave the site in a forward gear. The existing vehicular crossover will continue to function as existing. From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority

5. Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

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 contribution is secured by unilateral undertaking.

The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zoi) being approximately 725metres from Hamford Water Special Protection Area. Since the development is for 1 dwelling only, 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 Zoi 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 unilateral undertaking has been prepared to secure this legal obligation. This will 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.

6. Public Open Space

Paragraph 54 of the National Planning Policy Framework (2019) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

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". These sentiments are carried forward within emerging Policy HP5.

In line with the requirements of saved Policy COM6 and emerging Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that no contribution is being requested from Open Spaces on this occasion.

7. Representations

Frinton & Walton Town Council recommend approval for the development.

Conclusion

For the reasons set out above, the proposal is considered to represent a sustainable form of development in a location supported by national and local plan policy that will not result in any material environmental or residential harm that warrants refusal of planning permission.

6. **Recommendation**

Approval - Full

7. **Conditions / Reasons for Refusal**

- 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:- WHC01, revision B; received 4th January 2021.

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

- 3 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 and retained free of obstruction above 600mm at all times.

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.

- 4 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

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

Reason - To avoid displacement of loose material onto the highway in the interests of highway safety.

- 6 Prior to the occupation of the proposed dwelling, the existing private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary and provided with an appropriate dropped kerb crossing of the footway/verge.

Reason - To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

- 7 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 Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason - To ensure adequate space for parking off the highway is provided in the interest of highway safety.

- 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.

- 10 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.

- 11 No above ground works shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which 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 - This is a publicly visible building where an appropriate landscaping scheme is a visually essential requirement.

- 12 Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), the first-floor windows in the east elevation shall be glazed in obscure glass before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

Reason - To protect the privacy and amenities of the occupiers of adjoining property.

- 13 Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), no additional windows shall be inserted at first floor level in the east or west elevations except in accordance with details which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of the amenities of the occupants of neighbouring property.

8. Informatives

Positive & Proactive Statement:-

Application Approved Without Amendment

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:-

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

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.

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.

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.

Are there any letters to be sent to applicant / agent with the decision?		NO
Are there any third parties to be informed of the decision?		NO