

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	22/04/2021
Planning Development Manager authorisation:	TF	22/04/2021
Admin checks / despatch completed	DB	22.04.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	22.04.2021

Application: 21/00207/FUL **Town / Parish:** Frinton & Walton Town Council

Applicant: Mr Hurn - S B Developments Ltd

Address: Land adjoining Gainsboro Lodge 169 Connaught Avenue

Development: Erection of detached four-bedroom dwellinghouse with alterations to form central vehicular access to serve existing and proposed dwellings, with associated parking, amenity space and shed to rear (following demolition of existing detached garage)

1. Town / Parish Council

Frinton and Walton Town
Council
15.03.2021

Recommends REFUSAL - to allow this development would be further erosion of the open aspect and vista of Connaught Avenue, it would ruin the setting and detract from Gainsboro Lodge giving it a cramped appearance. Would be detrimental to the street scene.

2. Consultation Responses

ECC Highways Dept
25.03.2021

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 2019. It is noted that a detached dwelling similar to that submitted was allowed on appeal, (Appeal Ref APP/P1560/W/15/3132878) but the permission was never implemented and has subsequently expired. The new application retains adequate parking and turning for the proposed and host dwelling. It should be noted that the proposed shared vehicle access will impact on the existing limited waiting restriction at the front of the host dwelling and this will need to be amended and this is likely to be subject to a legal and formal consultation process at the expense of the applicant. This will need to be completed before the shared vehicle access is first used.

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

1. Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access.

Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1.

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

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

3. 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 in accordance with policy DM1.

4. Prior to the occupation of any of the proposed dwelling, the proposed 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 in accordance with policy DM1.

5. The existing vehicular access as shown on the block plan (Drawing no. Mhsb-01) shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / cycleway / kerbing immediately the proposed new access is brought into first beneficial use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety in accordance with policy DM1.

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

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

7. 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.

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 in accordance with Policy DM8.

9. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure,

convenient, covered and provided prior to first occupation and retained at all times.

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

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 free of charge.

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.

11. 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 highway/carriageway (delete as appropriate) is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

12. Prior to first occupation of the new dwelling the existing limited waiting restriction at the front of the host dwelling will need to be revoked/ amended to allow for the proposed shared access to be constructed and may require a legal and formal consultation process to be undertaken by the North Essex Parking Partnership. Any legal process would need to be completed and amendments carried out at the expense of the applicant and before the shared private access is first used by vehicular traffic.

Reason: To control the location of service vehicle movements to the site to minimize inconsiderate parking in the interests of highway safety and Policy DM1.

Note: A financial contribution may be required and form part of a Section 106 contribution which will be for the North Essex Parking Partnership to undertake this process.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

SMO1 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,

CO7 7LT

2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

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.

Essex County Council
Heritage
11.03.2021

The application is for the erection of detached four-bedroom dwelling house with alterations to form central vehicular access to serve existing and proposed dwellings, with associated parking, amenity space and shed to rear (following demolition of existing detached garage).

The land is located in Frinton and Walton Conservation Area, situated in Character Area 5- outer avenues and the station. Relevant planning history includes:

- Demolition of an existing garage & the provision of a new detached four bedroom dwelling & turning & parking facilities within the grounds of 169 Connaught Avenue (REF: 14/01479/FUL) - Refused
- Demolition of existing garage and erection of detached three bedroom dwelling adjacent 169 Connaught Avenue (REF: 15/00551/FUL) - Refused. Allowed on appeal (REF: APP/P1560/W/15/3132878)
- Proposed conversion of existing dwelling into 2no. separate flats and creation of new access onto Connaught Avenue to replace the existing (REF: 18/00382/FUL) - Refused

Previous reasons for refusal were principally due to the overdevelopment and impact to the character and appearance to the conservation area. The close proximity of the proposed development was considered to be contrary to the Tendring District Local Plan 2007 Policy EN17 - Conservation Areas. However the inspector found that the amended proposals would preserve the character and appearance of the conservation area: 'Overall, therefore, the scale and spacing of the proposed dwelling would be compatible with the rhythm of built form in this section of Connaught Avenue as it has evolved through recent infill development. The new building would be sited to follow the established building line and there is nothing to suggest that its form or appearance would be unacceptable.'

In determining this previous application and subsequent appeal, streetscenes were provided. Although the Design and Access Statement notes that the current proposal is in line with the appeal scheme, the application is for a four bedroom dwelling as opposed to a three bed (the appeal scheme). It is recommended that prior to determination further drawings are submitted to understand the visual impact on the character and appearance of the conservation area and how the proposed dwelling will be situated between the existing properties.

The proposed materials for the walls and roof are considered

appropriate and reflect the traditional building materials in the area. However, the proposed elevation drawing noted uPVC windows. This is not a historically appropriate finish, timber-framed windows and doors are recommended to preserve the character and appearance of the conservation area.

3. Planning History

TPC/98/36	Fell Golden Leylandii	Current	29.04.1999
TPC/99/18	Prune Eucalyptus and 1 other away from service cables	Current	22.03.1999
08/00247/TCA	1 No. Eucalyptus - fell	Approved	10.03.2008
08/00568/TCA	1 No. Oak - fell. 1 No. Flowering cherry - fell	Approved	28.04.2008
14/01479/FUL	Demolition of an existing garage & the provision of a new detached 4 bedroom dwelling & turning & parking facilities within the grounds of 169 Connaught Avenue.	Refused	16.12.2014
15/00551/FUL	Demolition of existing garage and erection of detached three bedroom dwelling adjacent 169 Connaught Avenue.	Refused	15.06.2015
16/00463/TCA	Sycamore, Holly, and Hawthorn - fell. Hawthorn 2 and 3 reduce by 30%	Approved	19.04.2016
16/00510/TCA	Fell Holly tree as it is poor health	Approved	05.05.2016
16/00624/DISCON	Discharge of conditions 3 (Materials), 4 (Walls and fences), 5 (Landscaping) and 11 (Construction Method Statement) of approved planning appeal on planning application 15/00551/FUL.	Approved	20.07.2016
18/00382/FUL	Proposed conversion of existing dwelling into 2no. separate flats and creation of new access onto Connaught Avenue to replace the existing.	Refused	15.05.2018

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
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
HG1	Housing Provision
HG6	Dwelling Size and Type
HG9	Private Amenity Space
HG14	Side Isolation
COM6	Provision of Recreational Open Space for New Residential Development
HG3	Residential Development Within Defined Settlements
EN6A	Protected Species
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN17	Conservation Areas
TR1A	Development Affecting Highways
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
HP5	Open Space, Sports & Recreation Facilities
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
PPL4	Biodiversity and Geodiversity
CP1	Sustainable Transport and Accessibility
PPL8	Conservation Areas

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 relates to the land adjoining Gainsboro Lodge, 169 Connaught Avenue, Frinton on Sea. The application site is located within the settlement boundary of Frinton and is within the Conservation Area.

Proposal

This application seeks planning permission for the erection of detached four-bedroom dwelling house with alterations to form central vehicular access to serve existing and proposed dwellings, with associated parking, amenity space and shed to rear (following demolition of existing detached garage)

History of Site

15/00551/FUL - Demolition of existing garage and erection of detached three bedroom dwelling adjacent 169 Connaught Avenue - Refused - Allowed at appeal Jan 2016.

Assessment

The main considerations for this application are:

- Principle of Development;
- Layout, Scale and Appearance
- Residential Amenities;
- Access and Parking;
- Heritage Impact
- Trees and Landscaping;
- Legal Obligations - Open Space/Play Space Contribution;
- Legal Obligations - Recreational Impact Mitigation;
- Other Considerations

1. Principle of Development

The application site is located within the settlement boundary. Saved Policy HG3 of the adopted Local Plan deals with residential development within defined settlements stating that, within the defined development boundaries of towns and villages, residential development will be permitted provided it satisfies amenity, design, density, environmental, highway, local housing needs and sustainability criteria, as appropriate, and can take place without material harm to the character of the local area. Proposals for development of infill plots should ensure that the scale, design and intensity of any new building are in harmony with existing surrounding development.

Emerging Policy SPL2 states that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local plan policies.

The principle of residential development on this site is acceptable subject to the detailed considerations relevant to this proposal are set out below.

2. Layout, Scale and Appearance

Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective. Saved Policy QL9 of the Tendring District Local Plan (2007) and Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality.

The proposed dwelling will appear as an infill plot along Connaught Avenue. The submitted plans demonstrate the layout of the proposed dwelling which allows for a well-spaced development retaining at least 1 metre to all boundaries which exceeds the standards set out within Saved Policy HG14 of the Tendring District Local Plan.

The overall scale and footprint of the dwelling is considered to be acceptable. The fenestration and the proposed materials are considered to relate acceptable to the character of the area.

Policy HG9 of the Saved Tendring District Local Plan 2007 states that private amenity space for a dwelling of three bedrooms should accommodate a minimum of 100 square metres. The plans provided demonstrate that the plot can accommodate in excess of 100 sqm in line and sufficient private amenity is retained for number 169 Connaught Avenue.

Overall the development is considered to represent an acceptable scale, layout and appearance that will not appear harmful to visual amenity or the character and appearance of the street scene.

3. Residential Amenities

Paragraph 127 of the NPPF states that planning should always seek to secure a good standard of amenity for all existing and future occupants. In addition, Policy QL11 of the Tendring District Local Plan (2007) 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. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) supports these objectives. Furthermore, Policy HG14 states that a minimum of 1 metre should be retained to boundaries in order to safeguard the amenities of neighbouring residents. In addition, Saved Policy HG9 sets out the minimum standards for private amenity space provision.

As stated above, the proposed dwelling retains 1 metre or more to all boundaries.

In terms of the impact upon the neighbouring dwelling number 169 Connaught Avenue, there are two windows proposed to the first floor serving an en-suite and bathroom however a condition will be imposed to ensure that the windows are obscure glazed to reduce any impact of overlooking onto neighbouring amenities. There are no first floor windows proposed to the southern side elevation which is shared with Deyne Court.

As stated within the appeal decision, paragraph 12 states that 'the flank wall of the proposed dwelling would be some 3m from the northern side wall of Deyne Court. This wall contains windows at ground, first and second floor levels. Since the new building is to the north, its effect on the sunlight and daylight reaching these windows would be limited. In this regard I note that the Council has undertaken an assessment using Building Research Establishment methodology and come to a similar conclusion. The only two windows in the northern side wall of Deyne Court which are not obscure glazed are at first floor level and close to the front and rear corners of the building. Therefore, whilst the outlook from these windows would be curtailed to a degree, they would retain views beyond the front and rear corners of the new building'.

Paragraph 14 of the appeal states that 'the proposed building would largely fill the space between Deyne Court and No 169 when viewed from 34 Upper Fourth Avenue, which is located to the west of the appeal site. I recognise that this space contributes to the view from the rear of No 34. However, the planning system is concerned with regulating land use in the public interests, rather than the protection of purely private interests such as the general view from individual properties. The outlook from this property is otherwise fairly open and the new building would be a considerable distance away. As such, I consider that the proposal would not have an overbearing effect on the outlook or privacy of the occupiers of No 34'.

It is therefore considered that the proposed development will not cause any significant impact upon neighbouring amenities.

4. Access and Parking

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 and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Essex Highway Authority have been consulted on this application and have stated that 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 2019. It is noted that a detached dwelling similar to that submitted was allowed on appeal, (Appeal Ref APP/P1560/W/15/3132878) but the permission was never implemented and has subsequently expired. The new application retains adequate parking and turning for the proposed and host dwelling. It should be noted that the proposed shared vehicle access will impact on the existing limited waiting restriction at the front of the host dwelling and this will need to amend and this is likely to be subject to a legal and formal consultation process at the expense of the applicant. This will need to be completed before the shared vehicle access is first used. The Highway Authority have no objection subject to conditions relating to pedestrian visibility splays, visibility splays, vehicular turning facility, no unbound materials, construction of private drive, existing vehicular access to be permanently closed, no discharge of surface water, boundary planting, vehicular parking space, cycle parking, residential travel pack, storage of building materials and waiting restriction to be revoked/amended. The parking space measurements will not be imposed as sufficient space is provided to the front of the proposed dwelling and the adjacent dwelling. There is sufficient room the rear of the dwelling to accommodate cycle parking and the residential travel pack will not be imposed as the application is for a minor development only.

The Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally.

The plans provided demonstrate that the dwelling will be served by two parking spaces which are in line with Essex Parking Standards and two spaces are retained for number 169 Connaught Avenue.

5. Heritage Impact

Policy EN17 of the Tendring District Local Plan 2007 and Policy PPL8 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) state that development within a Conservation Area must preserve or enhance the special character or appearance of the Conservation Area.

Place Services Historic Team have been consulted on this application and have stated the following;

The land is located in Frinton and Walton Conservation Area, situated in Character Area 5- outer avenues and the station. Relevant planning history includes:

- Demolition of an existing garage & the provision of a new detached four bedroom dwelling & turning & parking facilities within the grounds of 169 Connaught Avenue (REF: 14/01479/FUL) - Refused
- Demolition of existing garage and erection of detached three bedroom dwelling adjacent 169 Connaught Avenue (REF: 15/00551/FUL) - Refused. Allowed on appeal (REF: APP/P1560/W/15/3132878)
- Proposed conversion of existing dwelling into 2no. separate flats and creation of new access onto Connaught Avenue to replace the existing (REF: 18/00382/FUL) - Refused

Previous reasons for refusal were principally due to the overdevelopment and impact to the character and appearance to the conservation area. The close proximity of the proposed development was considered to be contrary to the Tendring District Local Plan 2007 Policy EN17 - Conservation Areas. However the inspector found that the amended proposals would preserve the character and appearance of the conservation area: *'Overall, therefore, the scale and spacing of the proposed dwelling would be compatible with the rhythm of built form in this section of Connaught Avenue as it has evolved through recent infill development. The new building would be sited to follow the established building line and there is nothing to suggest that its form or appearance would be unacceptable.'*

In determining this previous application and subsequent appeal, street scenes were provided. Although the Design and Access Statement notes that the current proposal is in line with the appeal scheme, the application is for a four bedroom dwelling as opposed to a three bed (the appeal scheme). It is recommended that prior to determination further drawings are submitted to understand the visual impact on the character and appearance of the conservation area and how the proposed dwelling will be situated between the existing properties. The proposed materials for the walls and roof are considered appropriate and reflect the traditional building materials in the area. However, the proposed elevation drawing noted uPVC windows. This is not a historically appropriate finish, timber-framed windows and doors are recommended to preserve the character and appearance of the conservation area.

A street scene has been provided and is considered to demonstrate the proposed dwelling and its siting within the street scene of Connaught Avenue. The agent has also submitted details of the windows which will be Heritage Timber Effect uPVC windows by SEH BAC.

It is therefore considered that the proposed works will not cause any harm to the Conservation Area and the proposal is therefore acceptable against this criteria.

5. Trees and Landscaping

Saved Policy EN1 of the adopted Local Plan (2007) relates to landscape character and states that development management will seek to conserve features which contribute to local distinctiveness, which includes important hedgerows and trees.

The application site currently forms part of the residential curtilage of the host property. The front boundary is demarcated by a low wall and hedge comprising Photinia 'Red Robin' There is a hardy palm tree close to the existing garage on the application site. No significant trees or other vegetation will be adversely affected by the development proposal.

6. Legal Obligations - Open Space/Play Space Contribution

Policy COM6 of the adopted Tendring District Local Plan 2007 states that 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.

There is currently a deficit of 14.12 hectares of equipped play & Open Space in Frinton, Walton & Kirby. Due to the current deficit a contribution is both relevant and justified to this development. The money would be used to make improvement at Crescent Gardens Frinton. A completed unilateral undertaking has been received.

7. Legal Obligations - Recreational Impact Mitigation

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

The application scheme proposes a residential on a site that lies within the Zone of Influence (Zoi) being approximately 2.5km away from Hamford Water Ramsar and SPA. 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 completed unilateral undertaking has been received to secure this financial contribution. 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.

8. Other Considerations

Frinton and Walton Town Council objects to this application as this application further erodes of the open aspect and vista of Connaught Avenue, it would ruin the setting and detract from Gainsboro Lodge giving it a cramped appearance. Would be detrimental to the street scene.

5 Letters of objection have been received raising the following concerns:

- Concerns over flooding at Deyne Court.

In response to the concern raised above, no evidence has been provided that the flooding is due to the development of houses. However, a condition will be imposed to ensure that porous materials are used when constructing the development.

- Concerns of overdevelopment and that the proposed development would not be in keeping

This concern has been addressed within the report.

- Concerns over the clay soil and the use of materials to try and mitigate flooding

A condition will be imposed to ensure that porous materials are used when constructing the development.

- Concerns over loss of light and overlooking to 32 Upper Fourth Avenue

The impact upon the neighbouring amenities has been addressed within the report.

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:

Drawing No. MHSB - 01

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.

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 any of the proposed dwelling, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of 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 The existing vehicular access as shown on the block plan (Drawing no. Mhsb-01) shall be suitably and permanently closed incorporating the reinstatement to full height of the kerbing immediately the proposed new access is brought into first beneficial use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety

- 8 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

- 9 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

- 10 Prior to first occupation of the new dwelling the existing limited waiting restriction at the front of the host dwelling will need to be revoked/ amended to allow for the proposed shared access to be constructed and may require a legal and formal consultation process to be undertaken by the North Essex Parking Partnership. Any legal process would need to be completed and amendments carried out at the expense of the applicant and before the shared private access is first used by vehicular traffic.

Reason: To control the location of service vehicle movements to the site to minimize inconsiderate parking in the interests of highway safety

- 11 Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), the window proposed serving the en-suite bathroom and the window serving the bathroom to the northern side of the dwelling shown on Drawing No. MHSB-01 shall be non opening and glazed in obscure glass and shall thereafter be permanently retained in this approved form.

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

- 12 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B, C and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no additions or alterations to the dwelling or its roof, nor shall any buildings, enclosures, swimming or other pool be erected except in accordance with drawings showing the design and siting of such additions and/or building(s) which shall previously have been submitted to and approved, in writing, by the local planning authority.

Reason - In the interests of visual amenity and residential amenities.

- 13 Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) England Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no provision of fences, walls, gates or other means of enclosures, shall be erected forward of the front elevation of the dwelling hereby approved except in accordance with details that shall previously be approved in writing by the Local Planning Authority.

Reason - In the interests of visual amenity.

- 14 All new parking areas and areas of hardstanding shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the site.

Reason - In the interests of sustainable development and to minimise the risk of surface water flooding.

- 15 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 all boundary treatments and 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." At least two of the site boundaries should be delineated with a new mixed native hedge in accordance with section 6.0 Mitigation and Enhancement Measures as set out within the accompanying Ecological Appraisal Ref: 1590 dated 16th September 2020.

Reason - To soften and enhance the development in the interests of visual amenity, and the setting of the Conservation Area.

- 16 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 ensure the implementation and maintenance of the approved scheme in the interests of visual amenity, and the setting of the Conservation Area

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.

Highways

A financial contribution may be required and form part of a Section 106 contribution which will be for the North Essex Parking Partnership to undertake this process.

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.

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.

Legal Agreement Informative - Open Space/Play Space Contribution

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: Public Open Space financial contribution in accordance with Policy COM6 of the adopted Tendring District Local Plan (2007) and Policy HP5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

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.

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