

DELEGATED DECISION OFFICER REPORT

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Application: 21/00328/FUL **Town / Parish:** Frinton & Walton Town Council

Applicant: Mr and Mrs D Pratt

Address: Land adjacent to Pear Trees Pork Lane Great Holland

Development: Erection of detached single storey dwelling and garage

1. Town / Parish Council

Frinton & Walton Town Council Recommend Refusal - outside the village envelope.

2. Consultation Responses

Tree & Landscape Officer Objection - The application site is currently in use as agricultural land and does not contain any trees or other vegetation. No existing trees or other significant vegetation will be adversely affected by the development proposal.

The southern boundary of the application site adjoins the northern boundary of the property known as 'Pear Trees', which is the edge of the existing ribbon development along Pork Lane. This boundary is demarcated by established vegetation, containing trees.

In terms of the impact of the development proposal on the local landscape character it should be noted that the area has no 'special' qualities however it forms part of the fabric of the countryside and it important 'for its own sake'.

The development would, if approved, have a detrimental impact of the sparsely developed character of the area and contribute to the gradual erosion of the countryside.

ECC Highways Dept No objection subject to conditions regarding vehicular and pedestrian visibility splays, turning facility, unbound material, provision of dropped kerb, discharge of surface water, boundary planting and storage of building materials.

Environmental Protection No objection subject to conditions to minimise potential nuisance caused by demolition/construction works/ground works in regard to vehicle movements,

Open Spaces Public Realm Open Space & Play – Contribution required due to deficit of 14.12 hectares of equipped play in Frinton, Walton & Kirby and Great Holland

3. Planning History

None

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019
National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

QL11 Environmental Impacts and Compatibility of Uses
HG9 Private Amenity Space
HG14 Side Isolation
COM6 Provision of Recreational Open Space for New Residential Development
EN1 Landscape Character
EN11A Protection of International Sites European Sites and RAMSAR Sites
TR1A Development Affecting Highways
TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)

Section 1

SP1 Presumption in Favour of Sustainable Development
SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3 Spatial Strategy for North Essex
SP4 Meeting Housing Needs
SP7 Place Shaping Principles

Section 2 (emerging)

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
PPL3 The Rural Landscape
CP1 Sustainable Transport and Accessibility

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

Site Description

The application site is located on the western side of Pork Lane, Great Holland and comprises of a parcel of open agricultural land, adjacent to the residential property 'Pear Trees'.

The site lies outside of the Great Holland Settlement Development Boundary as defined within both the adopted Tendring District Local Plan (2007) and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)

Proposal

This application seeks planning permission for the construction of a detached single storey dwelling and detached garage.

The main considerations are;

1. Principle of Development
2. Layout, Scale and Impact
3. Parking and Highway Safety
4. Residential Amenity
5. Trees and Landscaping
6. Financial Contribution - Open Space and Plans Space
7. Financial Contribution - Recreational Disturbance
8. Other Considerations

1. Principle of Development

Paragraph 7 of the National Planning Policy Framework (NPPF) states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 explains that achieving sustainable development means that the planning system has three overarching objectives, namely an economic objective, a social objective and an environmental objective. Paragraph 9 emphasises that these objectives should be delivered through the preparation and implementation of plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. This is supported in Paragraph 11 which states that plans and decisions should apply a presumption in favour of sustainable development and for plan-making this means that plans should positively seek opportunities to meet the development needs of their area. Strategic policies should, as a minimum, provide for objectively assessed needs for housing.

For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay. Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date then permission should be granted. Footnote 7 explains that this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites with the appropriate buffer, as set out in paragraph 73.

Paragraph 12 of the NPPF states that presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. Paragraph 47 confirms that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

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. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

The Council has now formally adopted Section 1 of the development plan which carries full weight in the determination of planning applications - superseding, in part, some of the more strategic policies in the 2007 adopted plan. In the interim, the modified policies in the Section 1 Local Plan, including the confirmed housing requirement, can be given significant weight in decision making owing to their advancement through the final stages of the plan-making process. 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 examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) is now expected to proceed in 2021 and two Inspectors have already 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.

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.

As the supply of deliverable housing sites in the modified Section 1 of the Local Plan is now in the order of 6.5 years this actual objectively assessed housing need for Tendring is a significant material consideration in the determination of planning applications which substantially tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing - particularly in the consideration of proposals that fall outside of the settlement development boundaries in either the adopted or the emerging Section 2 Local Plan.

In this instance, the site lies outside of the settlement development boundary for Great Holland as defined within both the adopted Tendring District Local Plan 2007 and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017. Tendring District Local Plan (2007) Policy QL1 has now been superseded by Policy SP3 of Section 1 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 and sets out that existing settlements will be the principal focus for additional growth across the North Essex Authorities area within the Local Plan period. Development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft, where Great Holland is classified as a smaller rural settlement within the settlement hierarchy and these are considered to be the least sustainable locations for growth, due to the limited facilities and services they provide, which then encourages a reliance on the use of the private motor car.

Policy SP3 and emerging Policy SPL1 support a plan-led approach that focuses development to locations which are or can be made sustainable, limiting the need to travel and offering a genuine choice of transport modes. This also includes making effective use of land, particularly that which is previously developed, in meeting the need for homes. Those planned for rural areas are responsive to local circumstances and support local needs, whilst recognising the intrinsic character and beauty of the countryside. Emerging Policy SPL1 of the Publication Draft gains traction due to the same consistency with the NPPF.

As set out above, the policies for the delivery of housing are considered up-to-date and the application must therefore be determined in accordance with Paragraph 11 c) of the NPPF, thus in accordance with the development plan.

Accounting for the housing land supply situation, regardless of the proximity of the site in relation to services and amenities, there is no longer a requirement to consider such sites for housing due to their location outside of the defined settlement development boundaries as the planned growth for the District to meet housing need has been established. In applying the NPPF's presumption in favour of sustainable development, the adverse impacts of the proposal both on the character of the locality and on the Council's ability to manage growth through the plan-led approach, are not outweighed by any benefits. The development is an unnecessary intrusion into the countryside and there are no public benefits that might warrant the proposal being considered in an exceptional light. The principle of a new dwelling in this location is, therefore contrary to the aims of paragraph 11 of the NPPF and contrary to the development plan Policy SP1.

2. Layout, Scale and Impact

Paragraph 8 of the NPPF sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. Saved Policy EN1 of the Tendring District Local Plan (2007) and Policies SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seek to ensure that development is appropriate in

its locality and does not harm the appearance of the landscape. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.

The site is located adjacent to the plot comprising of the residential dwelling 'Pear Trees' which is a similar size to the application site. The settlement development boundary (SDB) extends further north on the eastern side of Pork Lane, with a number of residential properties opposite the site. The road frontage and linear residential development that runs along both sides of Pork Lane forms a consistent building line, with properties located forward in their plots with fairly small rear gardens. 'Pear Trees' does not follow this linear frontage and is set towards the rear of its much larger plot. This plot was not included in the SDB in the Adopted Local Plan (2007), however it is included within the SDB in the emerging Local Plan and marks the boundary of the updated SDB for Great Holland.

The proposed new dwelling does not reflect either building line, being set back from the highway, out of line with the predominant linear frontage of Pork Lane and the neighbouring dwelling 'Pear Trees'. In terms of its impact in this rural location, whilst the proposed dwelling is single storey, the size and scale of the property, some 13.5m wide, a maximum of 20.5m deep, with a ridge height of 7m, is not reflective of the predominately, more modest size, scale and character of the surrounding dwellings, albeit there being a mix of bungalows, chalets and two storey houses. The proposed double garage to the rear boundary and the extensive driveway and hardstanding is also considered to be out of keeping with the rural countryside nature of the surrounding area. Overall the proposed dwelling would form a contrived and incongruous built form and would form a prominent feature given the open countryside views afforded from the main highway. The development is considered to be unacceptable, resulting in harm to the character of the countryside and is therefore contrary to policy in these regards.

The external materials proposed are considered to be acceptable, the dwelling accords with saved Policy HG14 in respect of the distance to the side boundaries and provides sufficient private amenity space for a dwelling of three bedrooms in accordance in with Policy HG9. The property is also compliant with the Technical housing standards – nationally described space standards (2015) for a three bed, six person single storey dwelling.

3. Access, Parking and Highway Safety

Paragraph 108 of the National Planning Policy Framework 2019 seeks to ensure that safe and suitable access to a development site can be achieved for all users. The sentiments of this policy are carried forward within Policy SP7 and emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The Essex County Council Parking Standards 2009 state that for dwellings of 2 or more bedrooms, 2 off-street parking spaces should be provided. The plans provided demonstrate that the application site can accommodate in excess of two parking spaces in line with Essex Parking Standards. Furthermore the Highways Authority have no objections to the proposal, subject to the conditions outlined above.

The proposed development is therefore acceptable in terms of highway safety and parking provision.

4. Residential Amenities

The NPPF, 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. Policy SPL3 states that 'buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents'. Saved Policy QL11 states that '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'.

The proposed dwelling and detached garage are located a sufficient distance away from the shared boundary with 'Pear Trees'. There are no other residential dwellings bordering the site. Therefore the proposal is not considered to result in harm to residential amenity in any regard.

5. Trees and Landscaping

The application site is currently in use as agricultural land and whilst the site itself does not contain any trees or other vegetation that would be adversely affected by the development proposal. The southern boundary of the application site adjoining 'Pear Trees' is distinguished by established vegetation, including some trees. The site is open land and although it does not have any special qualities in itself, it forms part of the fabric of the countryside and it important 'for its own sake'.

The construction of a new dwelling in this location would have a detrimental impact on the sparsely developed character of the area and contribute to the gradual erosion of the countryside. It is not considered that a soft and hard landscaping plan could be submitted that would mitigate the harm identified to the surrounding countryside. The proposal is therefore contrary to relevant policies concerning landscape impacts.

6. Financial Contribution - Open Space and Play Space

Policy COM6 of the adopted Local Plan 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". The financial contribution would be secured through a legal agreement.

There is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton & Kirby and Great Holland. Any additional development in Great Holland would increase demand on already stretched facilities and increase the deficit further.

There is only one play area in Great Holland, located at the corner of Pork Lane and Main Road, some 0.2m from the proposed development.

Due to the deficit of open space and play facilities in the area if it felt that a contribution is justified and relevant to this planning application. The contribution would be used to improve/maintain facilities at the play area/open space in Pork Lane, Great Holland.

A completed legal agreement has not been provided to secure this planning obligation and the proposal therefore fails to comply with the above-mentioned local plan policy.

7. Financial Contribution - Recreational Disturbance

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) and is approximately 3km 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 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 Policy EN11a of the Saved Tendring District Local Plan 2007, Policy SP2 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.

9. Other Considerations

Frinton and Walton Town Council object to the proposed development.

Eleven letters of objection have been received, including a letter from the Great Holland Residents Association. Two letters have been received supporting the application.

Summary of matters raised:

- Site is outside of TDC agreed settlement area
- Requirement to preserve village and control urban sprawl
- Approval would result in further backfilling and sprawl
- Application is speculative in nature
- Erosion of Countryside
- Cannot support application outside of settlement boundary
- Open views afforded along Pork Road would be lost
- Rest of the field could be opened to further development
- Large property proposed
- Housing supply for Tendring has been established
- Lack of facilities in village to sustain more development
- Increase in traffic within country lane
- Application should be supported for a local family

Conclusion and Planning Balance

The application site lies outside of any Settlement Development Boundary as defined within both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Regardless of the proximity of the site in relation to services and amenities, there is no longer a requirement to consider such sites due to their location outside of the defined settlement development boundaries as the planned growth for the District to meet housing need has been established. The adverse impacts of the proposal both on the character of the locality and on the Council's ability to manage growth through the plan-led approach, are not outweighed by any benefits or other material considerations. The development is unnecessary and there are no public benefits that might warrant the proposal being considered in an exceptional light. Necessary and proportionate contributions to mitigate against environmental impact have also not been provided.

All other material planning considerations have been taken into account within the appraisal section of this report.

6. Recommendation

Refusal - Full

7. Reasons for Refusal

- 1 The application site lies outside of any Settlement Development Boundary as defined within both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Regardless of the proximity of the site in relation to services and amenities, there is no longer a requirement to consider such sites due to their location outside of the defined settlement development boundaries as the planned growth for the District to meet housing need has been established. The adverse impacts of the proposal both on the character of the locality and on the Council's ability to manage growth through the plan-led approach, are not outweighed by any benefits or other material considerations. The development is unnecessary and there are no public benefits that might warrant the proposal being considered in an exceptional light. The

proposal is therefore contrary to the aims of paragraph 11c) of the NPPF and contrary to the development plan Policies SP1, SP3 and emerging Policy SPL1.

- 2 The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zoi) being but is approximately 3km 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 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.

- 3 There is currently a deficit of 14.2 hectares of equipped play/open space in Frinton, Walton & Kirby and Great Holland. Due to the significant lack of facilities in the area it felt that a contribution is justified and relevant to this planning application.

A completed legal agreement has not been provided to secure this planning obligation and the proposal therefore fails to comply with Policy COM6.

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 determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.

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