

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	CC	10.06.2021
Planning Development Manager authorisation:	SCE	11.06.2021
Admin checks / despatch completed	DB	11.06.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	11/06/2021

**Application:** 21/00055/FUL                      **Town / Parish:** Clacton Non Parished

**Applicant:** Wayne Maddison

**Address:** 22 Constable Avenue Clacton On Sea Essex

**Development:** Proposed new fence to side of property (facing onto Cotman Road).

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

Clacton Non-Parished      No comments required

### **2. Consultation Responses**

ECC Highways Dept  
27.05.2021

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 October 2012.

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

1. There should be no obstruction above ground level within a minimum 2.5 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage (with Cotman Road) and retained free of any obstruction at all times.

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

2. A 1.5 metre x 1.5 metre pedestrian visibility splay, shall be retained 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.

(Continued...)

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

3. Any new boundary planting must be planted a minimum of 1 metre back from the highway boundary and any visibility splay and retained free of obstruction above 600mm at all times.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

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

Informative:

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

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

SMO1 - Development Management Team  
Ardleigh Depot,  
Harwich Road,  
Ardleigh,  
Colchester,  
CO7 7LT

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

### **3. Planning History**

16/00414/DISCO N	Confirmation of compliance with conditions on planning approval TEN/269/79.	13.04.2016
20/30127/PREA PP	Proposed new fence to front of property.	02.11.2020

21/00055/FUL      Proposed new fence to side of      Current  
property (facing onto Cotman  
Road).

#### **4. Relevant Policies / Government Guidance**

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

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

SPL3 Sustainable Design

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

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

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

The Council has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26<sup>th</sup> January 2021, at which point it became part of the

development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.

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

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

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

### Proposal

This application seeks permission for the erection of a new fence to the side of the property (Facing onto Cotman Road).

### Application Site

The site is located towards the east of Constable Avenue, within the development boundary of Clacton on Sea. The site serves a detached two storey dwelling located on a corner plot between Constable Avenue and Cotman Road.

### Assessment

#### Design and Appearance

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.

The proposed new fence will be located to the north of the site, facing onto Cotman Road. The fence panels will be closeboard feather edge panels measuring 1.8 metres wide by 1.5 metres high above a concrete gravel board of 0.3 metres high with intermediate concrete posts. The proposed fence will extend 10.9 metres in width by 3.6 metres in length

The closeboard panels with gravel board and concrete posts are an acceptable design for the area and can be seen throughout the surrounding streetscene's. The proposed new fence is not considered to have any significant harmful effect on the visual amenities of the area.

#### Impact to Neighbouring 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. In addition, Policy QL11 of the saved plan states that amongst criteria 'development will only be

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

The proposed new fence is not considered to have any significant harmful impact to the amenities of the adjacent neighbouring properties.

### Highway issues

As the proposed new fence fronts onto Cotman Road, Essex County Council Highways have been consulted on this application and it was noted that from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions;

1. There should be no obstruction above ground level within a minimum 2.5 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage (with Cotman Road) and retained free of any obstruction at all times.

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

2. A 1.5 metre x 1.5 metre pedestrian visibility splay, shall be retained 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

3. Any new boundary planting must be planted a minimum of 1 metre back from the highway boundary and any visibility splay and retained free of obstruction above 600mm at all times.

**Reason:** To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

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

### Other Considerations

One Letter of representation has been received stating that there is no objection to the proposal providing the fence does not exceed 1 metre in height next to their property (No. 20 Constable Avenue). The proposed fence is to be located to the north of the site, away from this neighbouring property and is not considered to have any harmful effect on the adjacent neighbours.

Essex County Council Highways have no objection to this proposal

No other letters of representation have been received.

### Conclusion

It is considered that the proposed development is consistent with the National and Local Plan Policies identified above. In the absence of material harm resulting from the proposal the application is recommended for approval.

## **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 plans;

Block Plan scanned 30 March 2021

Site Plan scanned 30 March 2021

Written description of fencing (to read in conjunction with fencing photo) scanned 30 March 2021

Fence Details (to read in conjunction with written description) scanned 04 January 2021

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

- 3 There should be no obstruction above ground level within a minimum 2.5 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage (with Cotman Road) and retained free of any obstruction at all times.

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

- 4 A 1.5 metre x 1.5 metre pedestrian visibility splay, shall be retained 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

- 5 Any new boundary planting must be planted a minimum of 1 metre back from the highway boundary and any visibility splay and retained free of obstruction above 600mm at all times.

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. 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 Informatives

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

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