

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NW	01/07/2021
Planning Development Manager authorisation:	JJ	02/07/2021
Admin checks / despatch completed	DB	02.07.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	02.07.2021

Application: 21/00958/NMA **Town / Parish:** Ardleigh Parish Council

Applicant: Mr B Marshall - Wambugu Ltd

Address: Mount View Fox Street Ardleigh

Development: Non-Material amendment to Planning Permission ref; 20/01142/FUL (Erection of 4 no. detached 1.5 storey dwellings (variation to previously approved application 20/0498/FUL for 4 detached bungalows)). Amendments to include removal of false chimney stacks and to replace render finishes on walls with cream (off white) Hardiplank on all houses and garages

1. Town / Parish Council

N/a

2. Consultation Responses

N/a

3. Planning History

08/00692/TELCO M	Erection of 6m aerial and associated control kiosk and meter kiosk.	Determinat ion	26.06.2008
08/01357/FUL	Alterations to vehiclular access and construction of vehicle turning area.	Approved	13.11.2008
13/30126/PREA PP	Proposed erection of replacement dwelling with attached garage. Proposed erection of stables.		19.12.2013
14/30272/PREA PP	Proposed erection of replacement dwelling, detached garage and stable building.		14.08.2014

14/01081/LUEX	Residential property with single dwelling house.		06.10.2014
14/01896/FUL	Demolition of existing dwelling & shed. Replacement dwelling & detached garage.	Approved	12.02.2015
16/01563/HHPN OT	Rear Extension 7.7m width x 8.0m depth x 3.9m high. Side extension 6.3m width x 3.85m depth x 3.9m high		21.10.2016
16/01945/HHPN OT	Single storey rear extension.		09.01.2017
16/02092/FUL	Proposed erection of four bedroom detached house.	Withdrawn	20.11.2017
18/00794/OUT	Two dwellings.	Refused	13.07.2018
18/02015/OUT	Proposed two dwellings.	Approved	31.01.2019
19/00427/FUL	Proposed demolition of existing dwelling and erection of four bungalows.	Approved	28.06.2019
19/00974/DISCO N	Discharge of condition 13 (Construction Method Statement) of approved application 19/00427/FUL.	Approved	
20/00498/FUL	Proposed demolition of existing dwelling and erection of four dwellings (variation of approval 19/00427/FUL).	Approved	22.06.2020
20/01033/DISCO N	Discharge of conditions 3 (landscaping), 5 (materials), 12 (Construction Method Statement), and 13 (walls and fences) for approved application 20/00498/FUL.	Approved	02.10.2020
20/01142/FUL	Erection of 4 no. detached 1.5 storey dwellings (variation to previously approved application 20/00498/FUL for 4 detached bungalows).	Approved	11.11.2020
21/00958/NMA	Non-Material amendment to Planning Permission ref; 20/01142/FUL (Erection of 4 no. detached 1.5 storey dwellings	Current	

(variation to previously approved application 20/00498/FUL for 4 detached bungalows)). Amendments to include removal of false chimney stacks and to replace render finishes on walls with cream (off white) Hardiplank on all houses and garages

4. Relevant Policies / Government Guidance

Section 96A of the Town and Country Planning Act 1990 (as amended)

NPPF National Planning Policy Framework February 2019
National Planning Practice Guidance

Tendring District Local Plan 2007

QL9 Design of New Development
QL10 Designing New Development to Meet Functional Needs
QL11 Environmental Impacts and Compatibility of Uses
HG6 Dwelling Size and Type
HG7 Residential Densities
HG9 Private Amenity Space
HG14 Side Isolation
TR1A Development Affecting Highways
TR7 Vehicle Parking at New Development
EN1 Landscape Character
EN6 Biodiversity
EN11A Protection of International Sites European Sites and RAMSAR Sites
COM6 Provision of Recreational Open Space for New Residential Development

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

Section 1: North Essex Authorities' Shared Strategic Section 1 Plan, adopted January 2021

SP1 Presumption in Favour of Sustainable Development
SP6 Infrastructure & Connectivity
SP7 Place Shaping Principles

Section 2: Emerging

SPL1 Managing Growth
SPL3 Sustainable Design
LP1 Housing Supply
LP3 Housing Density and Standards
LP4 Housing Layout
PPL3 The Rural Landscape
CP1 Sustainable Transport and Accessibility
CP2 Improving the Transport Network
PPL4 Biodiversity and Geodiversity
HP5 Open Space, Sports & Recreation Facilities

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

Section 96A of the Town and Country Planning Act allows a Local Planning Authority, on application, to make a change to any planning permission if it is satisfied that the amendment proposed is non-material.

The key test as to the acceptability of an application for a non-material change is whether the change is material to any development plan policy. If the answer is 'no', three further tests should be applied:

1. Is the proposed change significant in terms of its scale (magnitude, degree etc.), in relation to the original approval?
2. Would the proposed change result in a detrimental impact either visually or in terms of amenity?
3. Would the interests of any third party or body who participated in or were informed of the original decision be disadvantaged in any way?

Appraisal

When looking at the setting of the host site approved under application 20/01142/FUL. The four, 1.5 storey dwellings, are well set back from Fox Street, the nearest being some 30m from the roadside. The dwellings are aligned at a right angle to the road, ie angled away making the 4th dwelling some 100m away. The access road is a private road and there are no public footpaths nearby. The most recent application 20/01142/FUL, to convert the buildings to 1.5 stories from single storey. The Case Officer commented; 'the development of the site for 4 detached dwellings would essentially appear as an infill between Chantrys, Nia-Roo, Braefoot and High View therefore resulting in little impact upon the landscape character or overall character of the immediate locality'.

This conclusion is not disputed. The site is not found within a Conservation Area and there are no Listed Buildings nearby. Fen Farmhouse, a Grade Two Listed Building is some 400m to the northeast is not effected by the proposal.

- Proposal

As outlined in the description section above, the application seeks to remove the false chimney stacks and to replace render finishes on walls with cream (off white) Hardiplank on all houses and garages. At present a cream render is approved on site.

Essentially there are two aspects to this non material minor amendment application; the removal of the Chimney stacks and the use of HardiPlanks. They shall be assessed separately.

- Policy Guidance

Despite the residential approval in 2020, the host site is within a 'countryside location' outside the settlement Development Boundary as defined within both the adopted Tendring Local plan (2007) and the emerging Tendring District Local Plan 2013 – 2033.

Within such Countryside areas generally there is a heightened focus on buildings design and materials used. This is often due to historical buildings present, the separation distances between buildings and their relatively isolated nature meaning they have to respect the countryside setting. Consequently, one frequently sees an enhanced level of detail on rural buildings from what could be deemed acceptable within a more urban setting or perhaps within an actual settlement boundary itself.

There are National and Local Planning Policies that back this position up. Within the Countryside there remains a requirement to seek to preserve or enhance the Countryside, in this case the Countryside setting.

Paragraph 8 of the National Planning Policy Framework 2019 (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. It goes onto say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that all new development to make a positive contribution to the quality of the local environment and protect or enhance local character. The policies seek to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.

Indeed, Policy EN1 Landscape Character part c) states development should contribute to local distinctiveness being in harmony with the setting and character of settlements and the vernacular of buildings within the landscape.

The vernacular in architectural terms can be defined as a type of local or regional construction, using traditional materials and resources from the area where the building is located. Consequently, this architecture is closely related to its context and is aware of the specific geographic features and cultural aspects of its surroundings, being strongly influenced by them. For this reason, they are unique to different places, becoming even a means of reaffirming an identity.

- Use of HardiPlanks

HardiPlank are made from advanced material fibre cement, HardiPlank cladding is an engineered cellulose-fibre and cement composite. The agent has provided information to the effect that the woodland cream from jameshardie.co.uk will be used.

When looking at the criteria for assessing non material minor amendments, one could say the use of HardiePlank is a lower quality of material than a timber or rendered finish. Certainly if one looks locally immediate neighbours and beyond, Officers saw no use of such material locally during the site visit.

Equally important, is the fact that residential dwellings nearby or in the area would not be able to install such HardiPlank materials without getting planning permission. As such an installation would not be a similar material replacement or like for like for what is existing at present.

Due to the absence of use of HardiPlank in the area and the fact that this is a countryside setting, the development is considered to be a negative material change against the grain of the local vernacular and harmful to the countryside setting forming an undesirable precedent.

Consequently, the part of the non material amendment is rejected. Officers would stress that if a full application was submitted for such works, the application would equally be objectional for the reasons outlined above.

- Chimney stack removal

The most recent approval 20/01142/FUL did not remove permitted development rights relating to chimney alterations, namely Class G of Article 3, Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015. However, there is some overlap with Class C of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015. This has been removed via Condition 8 of the decision notice 20/01142/FUL.

Class C of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 states: Development not permitted by Class C if it would consist of or include the installation, alteration or replacement of a chimney, flue or soil and vent pipe, this is found in part d) i).

Therefore, Officers are of the view that the chimneys are to be retained on the dwellings and planning permission is required for their removal.

However, when looking at the nearby properties of Braefoot and Chantrys both these buildings do not appear to have chimneys present. Chantrys, has a rather unattractive flue.

As a result, in conclusion the removal of the Chimney Stacks is considered acceptable on balance in this instance as a non-material minor amendment.

Conclusion

In this instance it is considered the amendment being sought to use Hardiplanks on the dwellings and garages are not accepted to be minor amendment.

The removal of the chimney stacks is acceptable as a non-material amendment to the approved plans attached to 20/01142/FUL.

1. Recommendation

- **Split Decision**

Approve the removal of the Chimney Stacks on the four dwellings associated with 20/01142/FUL

Notwithstanding the details approved on drawing 'P01F Amended Elevations & Layouts; Site Plan & Landscaping', within Decision Notice 20/01142/FUL. The 4 dwellings as approved, can be built without the external chimney stacks indicated on the approved drawings.

Refuse the use of HardiePlanks as a building material used on the four dwellings and garages associated with 20/01142/FUL. The proposed change of material would constitute a material change to the approved materials and requires planning permission to be installed.

2. Informatives

1. This decision letter should be read in connection with the Decision Notice associated with 20/01142/FUL.
2. The use of HardiePlanks on this development would not be supported by the Local Planning Authority, if a full planning application were submitted for consideration.

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