

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	JR	07.07.2021
Planning Development Manager authorisation:	JJ	07/07/2021
Admin checks / despatch completed	ER	07/07/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	<u>CC</u>	<u>07.07.2021</u>

Application: 21/01020/NMA **Town / Parish:** Lawford Parish Council
Applicant: Mr D Spurgin
Address: 45 Harwich Road Lawford Manningtree
Development: Non-Material Amendment to Planning Permission ref: 20/01179/FUL
(Proposed construction of new vehicular access). Amendment to reposition driveway by 2m

1. Town / Parish Council

Lawford Parish Council No comments received

2. Consultation Responses

NA

3. Planning History

99/00722/FUL	Proposed rear addition to increase size of lounge	Approved	24.06.1999
19/01667/FUL	Erection of two dwellings.	Refused	08.04.2020
20/00338/FUL	Erection of two semi-detached dwellings.	Approved	17.07.2020
20/01179/FUL	Proposed construction of new vehicular access.	Approved	03.12.2020
21/00477/FUL	Proposed erection of two detached dwellings	Approved	07.06.2021

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Adopted Tendring District Local Plan 2007 (part superseded)

QL11 Environmental Impacts and Compatibility of Uses (part superseded)
TR1A Development Affecting Highways
EN1 Landscape Character

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

Relevant Section 1 Policies (adopted)

SP7 Place Shaping Principles

Relevant Section 2 Policies (emerging)

SPL3 Sustainable Design

CP1 Sustainable Transport and Accessibility

PPL3 The Rural Landscape

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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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.

5. Officer Appraisal (including Site Description and Proposal)

From 1st October 2009 a new provision under Section 96A of the Town and Country Planning Act came into force allowing 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 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?

Site Description

The application site is an area of land to the west of No. 45 Harwich Road, currently an open grassed area of land between No's 45 and 44 and sited on the southern side of Harwich Road. On the front boundary with the highway there is an established coniferous hedge. The site is outside of any defined settlement boundary.

The site currently has planning permission for to construct two dwellings as detailed above.

Proposal

The application comprises of an amendment to planning approval 20/01179/FUL which granted permission for a new vehicular access to serve the two new dwellings. It is proposed to re-site the approved vehicular access some 2m further west along Harwich Road.

Appraisal

The re-siting of the approved vehicular access by some 2m further west along Harwich Road is considered to be a material change to the fundamental element of the previously approved application, which was for a new vehicular access only.

It is considered that in order to assess the both the acceptability and impact of this amendments, a formal (21 day) consultation process is required to be undertaken with ECC Highways and adjoining neighbours to allow comments to be received on this proposed amendment in regards to highway safety and parking provision. Due to the short 4 week determination period for a non-material amendment application, consultations are not able to be undertaken and/or it would be unreasonable to expect statutory consultees to respond in a shorter timeframe.

This is in line with Saved Development Plan Policies QL11, EN1 and TR1A, Adopted Policy SP7 and Emerging Policy CP1.

Therefore the proposed amendment is not considered to be a non-material change.

Conclusion

In this instance it is considered the amendment proposed is material in nature and therefore not acceptable as a non-material amendment to the approved plans attached to 20/01179FUL. A new full planning application is required to be submitted.

6. Recommendation

Refusal Non Material Amendment

7. Conditions / Reasons for Refusal

The proposed amendment is considered to be a material change, due to the potential impact on highway safety and parking provision at the site. Therefore a formal planning application is required to fully assess the amended siting and to consult Essex County Council Highways as a statutory consultees, and neighbouring properties.

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