

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NW	18/08/2021
Planning Development Manager authorisation:	JJ	18/08/2021
Admin checks / despatch completed	ER	18/08/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	18.08.2021

Application: 21/00887/FUL **Town / Parish:** Great Bentley Parish Council

Applicant: Mr and Mrs Herbert

Address: Land R/o Bouverie and The Oaks St Marys Road Great Bentley

Development: Proposed change of use of agricultural land to garden, including erection of garden store.

1. Town / Parish Council

No Comment received.

2. Consultation Responses

Tree & Landscape
Officer
13.07.2021

The main body of the application site is in agricultural use and does not contain any trees or other significant vegetation.

The land is enclosed on three sides by existing vegetation on adjacent land and within the gardens of the host property and neighbouring gardens. The only open boundary being on the southern aspect adjacent to the remaining agricultural land.

No trees or other significant vegetation will be adversely affected by the development proposal.

In terms of the impact of the development on the local landscape character it was noted that the application site is 'tucked away' and cannot be seen from a public place. Therefore whilst the proposed change of use of the land would result on the loss of a small parcel of agricultural land the visual impact on the development would be minimal.

Should planning permission to be granted then details of soft landscaping may be required with regards to the planting of a new hedge on the southern boundary to provide a degree of enclosure and screening.

3. Planning History

03/00121/TPO	Shorten or remove lower branches to Copper Beech	Approved	07.02.2003
06/00072/OUT	One detached dwelling	Approved	07.07.2006
06/02053/DETAIL	Proposed detached house - reserved matters following outline approval 06/00072/OUT.	Withdrawn	06.02.2007
07/00327/DETAIL	Proposed detached house - reserved matters following outline approval 06/00072/OUT.	Approved	17.04.2007
07/01859/FUL	Variation to design approved under 06/02053/DETAIL. Formation of dormer and rooflights in rear elevation.	Approved	
91/01049/FUL	Demolition of existing extension to house and construction of new extension.	Approved	23.10.1991
13/00034/FUL	Proposed detached garage.	Approved	15.03.2013
13/00438/DISCON	Discharge of condition 4 (design of garage foundations) of planning permission 13/00034/FUL.	Approved	01.05.2013
18/00611/FUL	Erection of single storey side extension to form study.	Approved	24.05.2018
19/01846/FUL	Proposed single storey extension to form living room.	Approved	30.01.2020
21/00887/FUL	Proposed change of use of agricultural land to garden, including erection of garden store.	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2021
National Planning Practice Guidance

- Tendring District Local Plan 2007 (part superseded)

QL11 Environmental Impacts and Compatibility of Uses

HG16 Garden Extensions into the Countryside EN1 Landscape Character

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

SPL3 Sustainable Design
PPL3 The Rural Landscape

Status of the Local Plan

Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).

The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.

Paragraph 48 of the Framework 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 the policies of the Framework. In this regard 'Proposed Modifications' to emerging Section 2 of the 2013-33 Local Plan which contains more specific policies and proposals for Tendring has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29th June 2021. The Council is holding a six week public consultation on the Main Modifications and associated documents, which began on 16th July 2021. The consultation will run for just over 6 weeks, closing at 5pm on 31st August 2021, following which adoption is expected later this year. Section 2 will join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.

In relation to housing supply:

The Framework requires Councils 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, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, the 'tilted balance' at paragraph 11 d) ii) of the Framework is engaged. This requires applications for housing development be granted permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Following the adoption of Section 1 of the 2013-33 Local Plan and the Council's 'Objectively Assessed housing Need' of 550 dwellings per annum there is no housing shortfall. The Council is able to report a comfortable surplus of housing land supply over the 5 year requirement. The 'titled balance' at paragraph 11 d) ii) of the Framework does not therefore apply to applications for housing.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site is located on the eastern side of St Mary's Road and the site is known as 'Bouverie'. The host dwelling is a large two storey family dwelling use with a triangular garden measuring some 75m in depth with various widths between 10m and 30m.

The host site is partly within the settlement boundary of 2007 local plan, however the rear part of the garden area, including the agricultural land the subject of this application, is outside the boundary drawn. The emerging local plan takes the entirety of Aingers Green outside the settlement boundary.

The building to the south (neighbour), The Oaks is a residential care home. The dwelling to the north Honey Cottage, is a residential dwelling.

The Defra Agricultural Land Classification is Grade 2 and Grade 3. (Grade 1 is the best, Grade 5 the worst).

Description of Proposal

The application seeks full planning permission for the change of use of the agricultural land to the rear of 'Bouverie' and The Oaks to be converted in private garden land for 'Bouverie'.

The proposed garden area is 50m in depth by between 22m and 32m in width. The land is some 30m from the rear of the host dwelling.

The application also includes the provision of a domestic outbuilding some 9m in width, 5m in depth and 5m in height with a pitched roof. The proposed building has a stable like appearance with two, gated store areas, and one covered open fronted central area. No windows are proposed.

Assessment

The main considerations are:

- 1) Policy Context
- 2) Visual Impact on the Countryside and Residential Amenity
- 3) Representations

Policy Context

Saved Policy EN1 of the adopted Tendring District Local Plan (2007) states that any development which would significantly harm landscape character or quality will not be permitted. Saved Policy HG16 of the adopted Tendring District Local Plan (2007) relates to garden extensions into the open countryside and states that these will only be permitted where:

- i. there is no material visual harm to the surrounding countryside;
- ii. there would be no material loss of existing trees, shrubs or hedgerows or damage to other habitats of nature conservation value;
- iii. it would not result in a material loss of best and most versatile agricultural land, or otherwise seriously interfere with a neighbouring agricultural enterprise; and
- iv. it would have no material adverse effect on the amenities of neighbouring properties.

These sentiments are echoed within Draft Policy PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Visual Impact upon the Countryside and Residential Amenity

The Landscape Officer has commented that the main body of the application site is in agricultural use and does not contain any trees or other significant vegetation. The Landscape Officer also says the land is enclosed on three sides by existing vegetation on adjacent land and within the gardens of the host property and neighbouring gardens. The only open boundary being on the southern aspect adjacent to the remaining agricultural land.

Officers accept this is the case on site, also, that no trees or other significant vegetation will be adversely affected by the development proposal. Also, from the public realm's perspective, the site is relatively concealed with no public footpaths in the area.

However, irrespective of possible landscaping conditions, Officers do not agree with the notion that the proposed change of use would have a 'minimal' the visual impact on the landscape.

The proposed additional garden area is located outside of any settlement boundary, where there is presumption against further development, such as that proposed. Also, when looking at the site in totality the land is very much forms an 'outlier' area, detached from the existing established rear boundary lines of the mostly residential buildings to the West of St Marys Road.

The host plot already extends further west than into the open countryside than any of the nearby properties. What is proposed exacerbates this aspect.

Adopted Policy QL11, Environmental Impacts and Compatibility of the 2007 Local Plan seeks for all new developments to be compatible with surrounding land uses and minimise any adverse environmental impacts. Ensuring the scale and nature of the development is appropriate to the locality amongst other things.

Policy SPL2 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) advises outside the Settlement Development Boundaries, new development will be subject to strict control to protect and enhance the character and openness of the countryside. This is consistent with, paragraph 130 of the NPPF that requires that

development should respond to local character and history, and reflect the identity of local surroundings. Also, paragraph 174 of the NPPF that states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services.

Policy EN1 of the Tendring District Local Plan 2007 states that 'the quality of the district's landscape and its distinctive local character will be protected and, where possible, enhanced. Any development which would significantly harm landscape character or quality will not be permitted'. These criteria are also contained within Policy SPL3 and PPL3 of the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Officers consider the development a contrived piecemeal addition to an already generous rear garden space. The development is isolated to the host dwelling, the addition of related recreational garden paraphernalia, including the proposed shed would fail to protect the character and quality of the landscape, failing to maintain and enhance landscape openness. These harms would be substantial and significant to the setting of the countryside landscape. Also, allowing such a development could lead to a proliferation of similar applications in the area adding to the further erosion the landscape character. Separately, the development would involve the loss of Grade 2 and Grade 3 agricultural land that is considered a valuable resource and this weighs further against the development proposal.

Finally, Officers are concerned that the proposed extended garden will be some 15m at its closet point to the Oaks to the west. Whilst the proposed garden extension has the potential to detract from the residential amenity currently enjoyed at this neighbouring property without necessary restrictions, it is considered that this concern could be overcome by a condition removing permitted development rights, and specifically permitted development rights possible under Class E (outbuildings/swimming pools etc).

Representations

No letters of representations have been received.

Conclusion

For the reasons set out above, the proposed change of use will negatively alter the appearance of the site and will result in material harm to the landscape character. Furthermore, the loss for Grade 2 and Grade 3 agricultural land is not justified while there will be harm and no other benefits other than a private benefit.

The application is therefore recommended for refusal.

6. Recommendation

Refusal

7. Reasons for Refusal

The proposal is considered a contrived, piecemeal addition to an already generous rear garden space. The development site is isolated to the host dwelling, the addition of related recreational garden paraphernalia, including the proposed shed would fail to protect the character and quality of the landscape, failing to maintain and enhance landscape openness or countryside setting. Allowing such a development could lead to a proliferation of similar applications in the area adding to the further erosion the landscape character and loss of Grade 2 and Grade 3 agricultural land that is considered a valuable resource.

The application is considered contrary to policy HG16 i), iii) and iv), policy QL11 Environmental Impacts and Compatibility of Uses and policyEN1 Landscape Character of the adopted Local Plan 2007. Also, policies SPL3 Sustainable Design and PPL3 The Rural Landscape of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) and paragraphs 130 and 174 of the 2021 NPPF.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the detailed Officer Report. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reasons for the refusal, approval has not been possible.

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