

## **DELEGATED DECISION OFFICER REPORT**

<b>AUTHORISATION</b>	<b>INITIALS</b>	<b>DATE</b>
File completed and officer recommendation:	AC	4 <sup>th</sup> Oct 2021
Planning Development Manager authorisation:	JJ	06/10/2021
Admin checks / despatch completed	ER	06/10/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	06.10.2021

**Application:** 21/01405/FUL **Town / Parish:** Ardleigh Parish Council

**Applicant:** Mr and Mrs Nick and Sharon Proud

**Address:** Pond House Hunters Chase Ardleigh

**Development:** Variation of condition 4 of 21/00554/FUL to change the wording to 'completion of the bungalow conversion within 6 month of the first occupation of the new dwelling'. All other elements of Condition 4 and the subsequent amendments are to be complied with without change.

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

No comments received

### **2. Consultation Responses**

No comments received

### **3. Planning History**

92/00758/FUL	Change of use of land from agriculture (horticulture) to use as a touring caravan site	Withdrawn	03.09.1992
96/00003/FUL	Change of use of part horticultural holding to touring caravan site with service block	Withdrawn	20.02.1996
84/01451/FUL	Det. single storey dwelling in assoc - with horticultural business	Approved	12.02.1985
85/00371/FUL	Temp siting of residential caravan	Approved	21.05.1985
85/00372/FUL	One agricultural dwelling ( details under TEN/1451/84 )	Approved	21.05.1985
89/00267/FUL	Det. agricultural dwelling for private residential in assoc with agricultural business	Refused	04.07.1989
08/00858/FUL	Single residential bungalow with outbuildings/garage without agricultural restriction.	Approved	
18/01218/LUEX	Occupation of the Site address in non-compliance with condition 4 of		21.09.2018

	planning permission TEN/1451/84 - Agricultural occupancy condition.		
19/30107/PREAPP	Demolition of existing bungalow and construction of a new two storey replacement dwelling and cartlodge/ancillary outbuilding.		17.07.2019
19/01949/FUL	Proposed construction of new two storey dwelling, conversion of bungalow to form garage/office, upgrading of existing vehicular access and landscaping to include change of use of paddock land to vineyard with modified access to vineyard and parking and turning facilities.	Approved	23.03.2020
20/00659/DISCON	Discharge of condition 2 (Landscaping) of approved application 19/01949/FUL.	Approved	18.06.2020
21/00554/FUL	Variation of Conditions 4 (Ancillary Use of Bungalow) and 10 (Approved Plans) of Approved Planning Permission ref: 19/01949/FUL (Proposed construction of new two storey dwelling, conversion of bungalow to form garage/office, upgrading of existing vehicular access & landscaping to include change of use of paddock land to vineyard with modified access to vineyard & parking & turning area facilities). Changes to include retention of more of existing structure and re-cladding of bungalow	Approved	23.07.2021
21/01405/FUL	Variation of condition 4 of 19/01949/FUL to change the wording to 'completion of the bungalow conversion within 6 month of the first occupation of the new dwelling'. All other elements of Condition 4 and the subsequent amendments are to be complied with without change.	Current	

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

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

COM6 Provision of Recreational Open Space for New Residential Development

HG9 Private Amenity Space

EN1 Landscape Character

EN23 Development Within the Proximity of a Listed Building

HG12 Extensions to or Replacement of Dwellings Outside Settlement Development Boundaries

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

EN6 Biodiversity

EN6A Protected Species

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

Relevant Section 1 Policies (adopted)

SP1 Presumption in Favour of Sustainable Development

SP3 Spatial Strategy for North Essex

SP7 Place Shaping Principles

Relevant Section 2 Policies (emerging)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL9 Listed Buildings

LP3 Housing Density and Standards

LP4 Housing Layout

PP13 The Rural Economy

PPL5 Water Conservation, Drainage and Sewerage

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

Local Planning Guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

## **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 26<sup>th</sup> 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 the 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 29<sup>th</sup> June 2021. The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16<sup>th</sup> July 2021. The consultation closed at 5pm on 31<sup>st</sup> August 2021 and adoption is expected later this year. Section 2 will then 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 'tilted balance' at paragraph 11 d) ii) of the Framework does not therefore apply to applications for housing.

## **5. Officer Appraisal**

### **Site Description**

The application site forms an extensive area of land located on the southern side of Hunters Chase and to the west of Coggleshall Road. The site is situated approx. 1.2miles north-east of Ardleigh and 1.5miles to the south-west of the centre of Dedham. The site is clearly defined with a distinct boundary fronting Hunters Chase to the north & Coggleshall Road to the east. The western and southern boundaries are equally clearly defined by extensive conifer and native species hedging with scattered broad leaved trees.

The existing dwelling known as The Bungalow lies to the north-eastern corner of the site, to the east of the main domestic vehicular access. A complex of single storey storage buildings & stabling, in various states of dilapidation are located to the centre of the site, along the main axis of the vehicular access, with various other demountable buildings, containers & redundant caravan toilet block.

### Relevant History

Since the approval of the original application, 19/01949/FUL, a subsequent application was approved which sought amendments to the initial approval. Application 21/00554/FUL approved changes which related only to the existing dwelling known as 'The Bungalow' and are detailed as follows:

- o Retention of more of the existing structure of 'The Bungalow' which will be clad with stained weatherboarding and whereby the ground floor space will include the Vineyard office, wine store, wine tasting room with kitchen, shower room and home gym. The first floor will be used for storage.
- o Removal of roof lights from the northern roof slope of 'The Bungalow'
- o Addition of two pitched roof dormers to the southern roof slope of 'The Bungalow'
- o Approved clay pantiles on 'The Bungalow' replaced with natural slate
- o Changes to the fenestration following the internal layout reconfiguration
- o Brickwork plinth beneath stained weatherboarding
- o Render to the chimney breast

### Description of Proposal

Following the granting of planning permission 21/00554/FUL (Variation of Conditions 4 (Ancillary Use of Bungalow) and 10 (Approved Plans) of Approved Planning Permission ref: 19/01949/FUL (Proposed construction of new two storey dwelling, conversion of bungalow to form garage/office, upgrading of existing vehicular access & landscaping to include change of use of paddock land to vineyard with modified access to vineyard & parking & turning area facilities). Changes to include retention of more of existing structure and re-cladding of bungalow); this application seeks to vary the wording of one of the conditions attached to that permission.

Condition 4 required that the existing bungalow on the site shall be converted and adapted for ancillary use (as shown on approved plan no. 06C) prior to the first occupation of the new dwelling. The building shall remain ancillary to the new dwelling thereafter and shall not be used as a separate independent unit of accommodation at any time.

The reason why this condition was imposed is that the site is within a locality where the creation of an additional dwelling would not be permitted unless there were exceptional circumstances to merit its retention.

### Assessment

The main planning considerations are:

- Principle of Development;
- Layout, Scale and Appearance;
- Neighbouring Amenities;
- Highway Considerations;
- Biodiversity;
- Financial Contributions - RAMS;
- Financial Contributions - COM6;
- Representations; and,
- Other Considerations.

Principle of Development:

The principle of the development has been established through the granting of the original planning approval 19/01949/FUL, as varied by 21/00554/FUL. In considering the application against the relevant policies the Local Planning Authority observed that the application was tantamount to a replacement dwelling and, in order to prevent two dwellings remaining on the site, Condition 4 required the works to convert the bungalow (the 'existing' dwelling) to ancillary use are required prior to the first occupation of the new dwelling.

The request is simply to amend the time-period for compliance, as opposed to remove the condition in its entirety. The application seeks to vary the wording in order that the conversion of the bungalow to ancillary use must take place within 6 months of the first occupation of the new dwelling rather than prior to first occupation.

In support of the request to varying the wording of Condition 4, the applicants puts forward that a number of factors have also contributed to this request, including the need to divert all of the main contractors resources to timely completion of the main dwelling as a result of significant delays caused by exceptionally inclement weather during October and January 2020/2021; the restricted availability of building materials due to the effect of the Covid-19 pandemic and the restrictions of working practices on site as a result of government restrictions and the need for many workers to periodically self-isolate.

It is considered that varying the time period for the conversion works does not diminish the control over protecting the site from having two dwellings.

#### Listed Building Impact:

Good Hall is located approximately 85m to the north-east of the proposed siting of the new dwelling and is Grade II Listed. Due to the degree of separation between the properties, the presence of mature planting on the shared boundary and the fact a dwelling is already in situ on the application site, the impact upon the setting of the listed building would be minimal. The variation to the wording of Condition 4 has no greater impact on the Listed Building than the existing permission.

#### Garden Extension/Paddocks/Vineyard:

The re-configuration of the land surrounding the proposed property into paddock/garden land and vineyard use are acceptable from a landscape impact viewpoint given the extensive vegetation present on the site perimeters. All the dilapidated outbuildings are to be removed which also aesthetically improves the site. The variation to the wording of Condition 4 has no greater impact on the surrounding paddock/garden land than the existing permission.

#### Trees/Landscaping:

The main body of the application site forms part of the residential curtilage of the existing dwelling and contains several outbuildings, some stables and a static caravan on the surrounding land. Otherwise the site is mainly set to grass and is subdivided by coniferous hedges approximately 6m tall. The hedges are prominent features in their setting but do not merit retention for their own sake and provide little benefit to the local landscape character.

In terms of the boundary vegetation the site boundaries are demarcated by relatively established hedgerows of various species composition. It is the hedges adjacent to the highway that provide the greatest benefit by way of screening. The hedge around the Bungalow is Laurel and the hedge between the existing and proposed upgraded access is Hawthorn and Blackthorn. The field boundary adjacent Coggeshall Road is primarily suckering Elm with a few larger trees. None of the boundary vegetation is threatened by the development proposal which identifies areas of new planting to strengthen the existing planting that will help to soften, screen and enhance the appearance of the development. Condition 2 of planning approval 19/01949/FUL required the submission of a scheme of hard and soft landscaping works for the site, which shall accurately identify the spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS5837:2012 - Trees in

Relation to Construction". A scheme of hard and soft landscaping works was submitted in May 2020 (application 20/00659/DISCON) and the details submitted were considered sufficient to discharge the condition 18.06.2020.

To the immediate west of the existing vehicular access there is an established Oak which makes a good contribution to the amenity of the locality. From a visual inspection from the ground the tree appears to be in good condition with no obvious defects. It is in a prominent position and is a positive feature in the public realm. The tree is shown as retained and the vehicular access, to which it is adjacent, is to be closed as part of the development of the land. The tree is not at risk of removal as a result of the development proposal. The development proposal appears unlikely to have any real impact on boundary vegetation or the Oak by the existing vehicular access.

The proposed improvement to the replacement vehicular access does not appear to threaten the viability of the existing hedgerow. In terms of the impact of the development proposal on the local landscape character it is noted that the site is currently well relatively well screened by existing vegetation and that this can be strengthened and improved by the new planting. The variation to the wording of Condition 4 has no greater impact on the trees/landscaping than the existing permission.

#### Ecology:

A habitat survey has been provided which confirms the following;

- The grassland and lawn areas provide foraging habitat for amphibians during rainfall or heavy dews, whilst hedgerows provide potential refuge and dispersal habitat. None of the buildings proposed for demolition supported evidence of roosting bats. The site overall provides Moderate value for foraging and commuting bats. Old robin (*Erithacus rubecula*) and swallow (*Hirundo rustica*) nests were found in outbuilding, while hedgerows provide nesting, song perch and foraging opportunities. Grassland provides foraging habitat for insectivores.
- No evidence of badger (*Meles meles*) activity was found, though the grassland does provide suitable foraging opportunities. Hedgehog (*Erinaceus europaeus*) will likely forage across the site, disperse along hedgerows, and may nest in the bases of dense hedgerows or scrub.
- Recommendations are made to avoid ecological impacts and ensure No Net Loss. Where impacts cannot be avoided, measures are proposed to mitigate remaining effects including timing of works and good working practices, whilst landscaping and biodiversity enhancements are outlined which will achieve a Biodiversity Net Gain for the scheme as required by the National Planning Policy Framework and legislation, while standard planning conditions are recommended. The variation to the wording of Condition 4 has no greater impact on the site's ecology than the existing permission.

#### Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) and Public Open Space:

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.

Paragraph 54 of the National Planning Policy Framework (2019) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

Policy COM6 of the adopted Tendring District Local Plan 2007 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". These sentiments are carried forward within emerging Policy HP5.

No legal obligations were sought as this application does not result in a net gain of dwellings on the site. The variation to the wording of Condition 4 has no greater impact on legal agreements than the existing permission.

## **6. Recommendation**

Approval - Full

## **7. Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of 23rd March 2020.

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 hard and soft landscaping shall be in accordance with details approved under reference 20/00659/DISCON on 18 June 2020.

Reason - In the interest of visual amenity and the character of the area.

- 3 All planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of five years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - In the interests of visual amenity and the character and appearance of the area.

- 4 The existing bungalow on the site shall be converted and adapted for ancillary use (as shown on approved plan no. 06C) within 6 months of the occupation of the new dwelling. The building shall remain ancillary to the new dwelling thereafter and shall not be used as a separate independent unit of accommodation at any time.

Reason - The site is within a locality where the creation of an additional dwelling would not be permitted unless there were exceptional circumstances to merit its retention.

- 5 In accordance with drawing no's. 04D and 05B; and prior to the occupation of any of the proposed dwelling, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of carriageway with Hunters Chase.

Reason - To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

- 6 In accordance with revised drawing no's. 04D and 05B and prior to occupation of the dwelling, an informal vehicle passing place shall be provided within Hunters Chase with minimum dimensions:

- 1.5 metres wide x 6 metres in length (Overall length 14 metres)



Reason - To ensure that vehicles can pass and re-pass within the highway in a controlled manner in the interest of highway safety to ensure accordance with safety.

- 7 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason - To avoid displacement of loose material onto the highway in the interests of highway safety.

- 8 As indicated on drawing nos. 04D and 05B the proposed gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.

Reason - To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent carriageway in the interest of highway safety.

- 9 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecology Report (MHE Consulting, December 2019) as already submitted with planning application 19/01949/FUL and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during demolition/construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason - To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the UK Habitats Regulations, the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

- 10 The development hereby permitted shall be carried out in accordance with the following approved plans:

19/01949/FUL:-  
1319-01E, 1319-03B, 1319-04D and 1319-05B.

21/00554/FUL  
1319-06C

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

## **8. Informatives**

Application Approved Without Amendment:-

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:-

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.

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 - Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester  
CO4 9YQ

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

For the proposed vehicle access and prior to first use it would be advisable to cut back the existing hedge adjacent to the current field access and bordering the neighbouring property, 'Kalm Oak House' to improve visibility to the west of the access.

<b>Are there any letters to be sent to applicant / agent with the decision?</b>		<b>NO</b>
<b>Are there any third parties to be informed of the decision?</b>		<b>NO</b>