

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	8 th Oct 2021
Planning Development Manager authorisation:	SCE	9.10.2021
Admin checks / despatch completed	CC	11.10.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	TF	11.10.2021

Application: 21/00654/FUL **Town / Parish:** Great Bromley Parish Council

Applicant: Mr B Taylor - Maragota Properties Ltd

Address: Land South of Harwich Road Great Bromley

Development: Proposed replacement of an agricultural storage building with a two bed bungalow (in lieu of Prior Approval for conversion in to a dwelling subject of application 20/01114/COUNOT).

1. Town / Parish Council

Mrs Great Bromley Parish Council Great Bromley Parish Council had no objection to the application.

2. Consultation Responses

ECC Highways Dept

Environmental Protection No comments received

UU Open Spaces Response from Public Realm
Open Space & Play

There is currently a deficit of -1.15 hectares of equipped play and formal open space in Great Bromley.

It is unlikely that there will be any significant impact on this play area. Therefore no contribution is requested on this occasion. However should there be any further development in this area a contribution maybe required.

Building Control and Access Officer No adverse comments at this time.

3. Planning History

09/00312/AGRIC Erection of agricultural / storage building / workshop. Determination 18.05.2009

09/00598/AGRIC Erection of agricultural / storage building / workshop. Determination 16.07.2009

20/01114/COUNOT Conversion of an agricultural building into one dwelling. Determination 23.10.2020

21/00654/FUL Proposed replacement of an Current

agricultural storage building with a two bed bungalow (in lieu of Prior Approval for conversion in to a dwelling subject of application 20/01114/COUNOT).

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Adopted Tendring District Local Plan 2007 (part superseded)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

EN6 Biodiversity

HG9 Private Amenity Space

LP1 Housing Supply

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

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

LP1 Housing Supply

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

Local Planning Guidance

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 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 29th June 2021. The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16th July 2021. The consultation closed at 5pm on 31st 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 'titled balance' at paragraph 11 d) ii) of the Framework does not therefore apply to applications for housing.

5. Officer Appraisal

Site Description

The site is a small part in the north-west corner of a 37-acre agricultural unit south of Harwich Road and east of Mill Farm, Great Bromley. There is an existing cross-over from the Highway at this location with a track providing one means of access onto the land and to the steel-clad single

storey agricultural barn and the hardstanding around the building. The agricultural land also benefits from a Highways access towards the east end of the field.

The land falls from Harwich Road southwards into the site and down into the valley beyond. Land rises to the east of the site. At this location the barn is approximately 1.9m below road level. Along the western edge of the site is a ditch running down to Tenpenny Brook below.

Along the northern (road) frontage and eastwards from the access point is a low hedgerow. From the access point westwards a timber post and rail fence demarcates the back edge of the verge to the Highway. The western boundary to the site, following the ditch, has a mix of scrub, individual trees

Relevant History

In October 2020, the Council deemed that prior approval was not required for the conversion of an agricultural building into one dwelling (reference: 20/01114/COUNOT).

Description

The current application is in lieu of the approved dwelling under 20/01114/COUNOT with one new bungalow in approximately the same location as the building subject of the Prior Approval. The block plan indicates that the agricultural barn would need to be demolished in order to implement the scheme proposed.

The dwelling would be 11.1m wide and, save for a rear-gable feature, would be 8.2m deep. The rear projection would add a depth of approximately 2.1m and be around 4m wide. The main ridge runs approximately east-west with the rear gable feature approximately north-south. Eaves are in the region of 3m and main ridge around 6.5m. Two parking spaces are proposed to the front of the property, side and rear amenity spaces and post/rail fencing to the perimeter of the curtilage.

Externally the dwelling would be constructed in grey horizontal timber cladding, with co-ordinating grey fascias/soffits, a contrasting red-clay pantiled roof.

Assessment

The main planning considerations are:

- Principle of Development;
- Layout, Scale and Appearance;
- Neighbouring Amenities;
- Highway Considerations;
- Financial Contributions - RAMS;

Principle of Development:

Paragraph 11 of the National Planning Policy Framework 2019 (NPPF) states that plans and decisions should apply a presumption in favour of sustainable development. For plan-making this means that plans should positively seek opportunities to meet the development needs of their area. Strategic policies should, as a minimum, provide for objectively assessed needs for housing. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay. Paragraph 12 of the NPPF states that presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted.

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, 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 adopted Section 1 part of the development plan which carries full

weight in the determination of planning applications - superseding, in part, some of the more strategic policies in the 2007 adopted plan. In the interim, the modified policies in the Section 1 Local Plan, including the confirmed housing requirement, can be given significant weight in decision making owing to their advancement through the final stages of the plan-making process.

For the purposes of the determination of this application the Council can currently demonstrate that a 5 year housing land supply exists. Under Section 38 of the Planning and Compulsory Purchase Act 2004, decisions on planning applications must be made in accordance with the development plan unless other material considerations indicate otherwise.

A material consideration which tempers the weight in allowing development in this particular instance is the existence of permitted development as a 'fallback position'. The case of [Mansell v Tonbridge And Mailing Borough Council [2017] EWCA Civ 1314] established that the key factor to consider is whether there is a "real prospect" of permitted development rights being utilised. Case law has established that, in order for this to be considered as a fall-back position, the prospect of utilising permitted development rights does not need to be 'probable', merely a 'possibility'. In this regard the site benefits from a Prior Approval application to convert the agricultural building in to a dwelling having a floorspace of 98sqm.

It is therefore considered that the fallback position holds significant weight as a material consideration.

Layout, Scale and Appearance:

Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Emerging Policy SPL3 of Section 2 of the 2013-33 Local Plan also requires, amongst other things, that the development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Paragraph 130 of the Framework requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

The proposal would replace the existing agricultural barn, which is of simple low-pitched duopitched functional storage building form. The new dwelling would have a symmetrical main roof with a central ridge, but using lower eaves levels. The design proposed is a more clearly residential form, with a 40-degree main roof pitch, enabling the vaulted ceiling to the living space in the rear outshoot. The southern roof slope provides a significant opportunity for the occupants to use solar energy (PVs and solar hot water). The existing agricultural building has its longer elevations facing north-west and south-east; these orientations are not optimal for passive solar design nor does it take advantage of the location and orientation of the access driveway to the north or the view to the south.

The new dwelling would be a 2 bedroom bungalow having a gross floor area of 99m², identical to the approved scheme.

Externally its appearance would comprise grey horizontal timber cladding, with co-ordinating grey fascias/soffits, a contrasting red-clay pantiled roof; there is not local vernacular and for this reason the external materials are considered appropriate in this location. The siting and footprint of the proposed dwelling would closely reflect that of the existing agricultural building.

At this location the barn is approximately 1.9m below road level; and, being single-storey in nature will relate 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.

Amenities of Existing & Future Occupiers:

The NPPF, at paragraph 130 states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Adopted Policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) requires that all new development protects the amenity of

existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.

The development is single storey and separated from the occupiers of Mill Farm by more than 130m.

Different dwelling sizes and types provide accommodation for individuals and families with a wide range of expectations and need for private amenity space. "Private amenity space" comprises a private outdoor sitting area not overlooked by adjacent or opposite living rooms or outdoor sitting areas. Apart from its private recreation function, private amenity space is also important in achieving well laid out development.

Private amenity space shall be provided to new dwellings in accordance with the following standards:- a two bedroom house should provide a minimum of 75 square metres. The amenity space, at over 270sqm is extensive.

National Space Standards require that a single storey, two-bedroom, four person dwelling has a minimum of 70sqm gross internal floor area. At around 99sqm the dwelling would more than adequately comply.

Overall the proposal the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties and is considered to secure a good standard of amenity for future occupants of the proposed dwelling.

Highways:

Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The Council's current Parking Standards require that for dwellings with 3 bedrooms a minimum of 2 parking spaces be provided per unit. The preferred bay size for cars is 5.5 metres by 2.9 metres and the minimum bay size is 5 metres by 2.5 metres.

In terms of access, the scheme follows the bellmouth arrangement as shown upon the approved scheme. This will enable a new graded entrance constructed as a double width and provided with a consolidated surface. The visibility splays as shown on the approved scheme will again be available. Drawing No: 20007-3-02 indicates that the required 2.4m x 140m visibility splays are achievable within land in the control of the applicant. It is however considered appropriate to impose conditions which will prevent any obstructions (hedges, gates etc) to these splays.

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS):

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.

The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zoi) being approximately 4850metres from Colne Estuary (Mid-Essex Coast Phase 2), RAMSAR, SPA And SAC. Since the development is for 1 dwelling only, the number of additional recreational visitors would be limited and the likely effects on the Colne Estuary from the proposed development alone may not be significant. However, new housing development within the Zoi would be likely to increase the number of recreational visitors to the Colne Estuary; and, in

combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Representations

No letters have been received in response to the publicity of this application.

Great Bromley Parish Council had no objection to the application.

6. Recommendation

Approval – Full

7. Conditions

- 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: 20007-3-03, 20007-3-04, 20007-3-05 and 20007-3-07; received 7th April 2021 and 20007-3-02 REV A; received 27th April 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 x 3m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety.

- 4 No unbound material shall be used in the surface finish of the driveway within 6 metres of the highway boundary of the site.

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

- 5 There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

- 6 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

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.

- 7 Any 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 footway / cycleway or where no provision of footway/cycleway is present, 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 footway/cycleway/carriageway in the interest of highway safety.

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.

Legal Agreement Informative - Recreational Impact Mitigation:

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

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