

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	JR	19.01.2022
Planning Development Manager authorisation:	JJ	19/01/2022
Admin checks / despatch completed	ER	19.01.2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	19.01.2022

Application: 21/01628/FUL **Town / Parish:** Wix Parish Council

Applicant: Mr Peter Thompson - George Thompson Ltd

Address: Farm Access adjacent to Richwill Farm Oakley Road

Development: Proposed widening of existing farm access to allow the footpath to be segregated from farm access, and the erection of gates at the access.

1. Town / Parish Council

Wix Parish Council No Comments Received

2. Consultation Responses

ECC Highways Dept
22.11.2021

These works are associated with the permanent diversion of Public Right of Way 20 (Wix_183) which is waiting on third party landowner works to allow for diverted public footpath to go by the side of a new gate and onto their existing vehicular farm access. It has been confirmed by PROW Planning that the proposals tie in with their diversion plan and they fully support these measures to enable their diversion (which are being undertaken on behalf of Tendring District Council) to be completed. Taking these factors into consideration:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions in relation to no unbound material, positioning of gates, no discharge of surface water, provision of visibility splay,

3. Planning History

None

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2021
National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

QL11 Environmental Impacts and Compatibility of Uses (part superseded)
EN1 Landscape Character
EN16 Agricultural and Related Development
TR1A Development Affecting Highways

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
SP7 Place Shaping Principles

Relevant Section 2 Policies (emerging)

SPL3 Sustainable Design

PPL3 The Rural Landscape

PP13 The Rural Economy

CP1 Sustainable Transport and Accessibility

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. On 24th November 2021, the Council received the Planning Inspectors' final report on the legal compliance and soundness of Section 2 of the emerging Local Plan. The report has confirmed, that with the inclusion of a number of 'Main Modifications' (which have already been the subject of formal public consultation), the Plan is legally compliant and sound and can now proceed to adoption. The report is due to be considered by the Planning Policy and Local Plan Committee on 11th January 2022 which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25th January 2022. On adoption, the new Section 2 Local Plan will join the new Section 1 Local Plan to form the 'development plan' for Tendring and the old 2007 Local Plan will be superseded in full.

Now that the Inspectors' final report is received, the Section 2 Local Plan has virtually reached the final stage of preparation, all objections have been resolved and the Inspector has confirmed that the Plan is sound and therefore in conformity with the Framework. For these reasons, Officers now advise that the emerging Plan should now carry 'almost full weight' in decision making.

Until the new Local Plan is adopted in January 2022, the 2007 adopted Local Plan, legally, will still form part of the 'development plan' and there will still be a requirement to refer to the 2007 Local Plan in decision making. However, the level of weight to be afforded to the policies in the 2007 Plan is reduced to very limited weight given that a more up to date Plan has progressed to such an advanced stage of the plan making process.

5. Officer Appraisal

The application site is located on the southern side of Oakley Road and comprises of an existing farm access running along the south eastern boundary of the adjoining Richwill Farm site, which comprises of a wedding venue, holiday accommodation, a campsite and associated parking.

Proposal

The application seeks planning permission to wider the existing access onto Oakley Road to facilitate the permanent diversion of Public Right of Way 20 (Wix_183) which is being undertaken by Essex County Council. The works involve widening of the access to allow space for a new footpath to be formed running parallel with the boundary of Richwill Farm which is separate from the farm access for safety reasons. Gates are also proposed to the farm access to indicate the separate vehicular access to the farm.

Appraisal

Principle of Development

Emerging Policy PPL 3 seeks to protect the rural landscape and prevent harm to its character and appearance, in particular footpaths and bridleways. Emerging Policy CP1 supports access to sustainable modes of transport such as walking and cycling which are considered to benefit both the environment and public health.

The current route of this PROW goes through and across the front of Richwill Farm, which has been converted into a wedding venue with associated facilities and parking and given the level of activity around the current route of the footpath, it has been proposed by ECC to divert the footpath, utilising the existing access alongside the farm track and re-joining up with the existing footpath, further south. Thus the proposed development to the exiting access is required. Therefore there is no objection to the principle of the development subject to the detailed considerations outlined below.

Impact on the Character and Appearance of the area.

Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Emerging Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials and should respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Saved Policy QL11 supports these considerations.

The proposed development is considered to be acceptable and of a suitable design fitting with this rural location. The proposal would enhance the PROW facilities in the area and the existing farm access. The extension of the access way and the installation of the two metal gates are appropriate in this rural location and are commonly seen within farm settings.

Highways impact

Paragraph 110 of the Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users. Emerging Policy CP1 seeks in relation to ECC Highways requirements, development should be acceptable in terms of highway capacity, safety and convenience and to meet their relevant policy requirements for access and parking.

The highways authority have been consulted on this application and subject to recommended conditions, with regard to no unbound material being used, the positioning of gates which open inwards, no discharge of surface water to the highway and the provision of appropriate visibility splay, have no objection to the proposed development. They are aware that these works are associated with the permanent diversion of Public Right of Way 20 (Wix_183) which is waiting on third party landowner works (the subject of this application) to allow for the diverted public footpath to go by the side of a new gate and onto their existing vehicular farm access.

Furthermore PROW Planning have confirmed that the proposal ties in with the agreed diversion plan and fully support these measures to enable the diversion to be implemented.

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 strict accordance with the following approved plans: IT2258/HD/002 Rev B, IT2258/HD/001 Rev A, J7 02179

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

3. Prior to first use of the extended access hereby approved a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, must be provided on both sides of the approved farm access. Such visibility splays must be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety

4. No unbound material shall be used in the surface treatment of the vehicular access.

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

5. The gates hereby approved to the extended farm access must be inward opening only and set back a minimum of 6 metres from the back edge of the footway/verge or where no provision of footway/verge 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

6. 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.

8. Informatives

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 Informatives:

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 or by post to:

SMO1 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

Under Section 23 of the Land Drainage Act 1991, prior written consent from the Environment Agency is required to build any culvert (pipe) or structure (such as a dam or weir) to control or alter the flow of water within an ordinary watercourse. Ordinary watercourses include ditches, drains and any other networks of water which are not classed as Main River.

If you believe you need to apply for consent, please contact the Environment Agency as soon as possible to discuss your plans. Planning permission does not negate the requirement for consent, and full details of the work you propose will be required at least two months before you intend to start. Once preliminary details have been agreed, you will be asked you to fill in an application form, which must be returned with the appropriate fee.

Please call the Environment Agency on 08708 506 506 and ask for the Essex Development and Flood Risk Team to discuss this requirement further.

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.

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.

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