

## **DELEGATED DECISION OFFICER REPORT**

<b>AUTHORISATION</b>	<b>INITIALS</b>	<b>DATE</b>
File completed and officer recommendation:	NH	14/09/2022
Planning Development Manager authorisation:	AN	15/9/22
Admin checks / despatch completed	ER	15/09/2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	15/09/2022

**Application:** 22/00810/FUL **Town / Parish:** Lawford Parish Council

**Applicant:** Mr and Mrs Kemp

**Address:** 71 Hungerdown Lane Lawford Manningtree

**Development:** Proposed replacement of an agricultural building and glasshouses with a three bed bungalow (in lieu of Prior Approval for conversion into a dwelling subject of application 21/00152/COUNOT). Variation to planning permission granted under reference 21/01903/FUL with amended access.

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

Lawford Parish Council Have not commented on this application

### **2. Consultation Responses**

ECC Highways Dept  
27.07.2022

The information that was submitted in association with the application has been fully considered by the Highway Authority. A site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material. It is noted that this application seeks to replace the agricultural building, with three-bed bungalow and an amended vehicular access from Hungerdown Lane whereby the previous application was sharing/ utilising the existing vehicular access. The proposed location of the vehicular access is an opening in a hedge and the access is unmade, no hard surface and appears to be shared with the neighbouring property to the south and provides an informal access to the garden of No. 71 Hungadown Lane.

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

1. Based on the information provided the applicant has failed to demonstrate adequate visibility splays from the proposed access in accordance with the speed of the road, to the satisfaction of the Highway Authority. The lack of such visibility would result in an unacceptable degree of hazard to all highway user to the detriment of highway safety.

The proposal is therefore contrary policies DM1, and DM4 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: As far as can be determined, there is no drawing provided on the visibility splays for the new access or the extent of the publicly maintainable highway to determine whether adequate visibility splays can be provided within the limits of public highway and/or land in the control of the applicant.

2. Although the Planning Statement indicates that: 'Visibility splays in excess of 2.4m x 105m to the south and 2.4m x 132m to the east are available together with a turning facility, enabling all vehicles being able to leave the site in a forward gear'.

Following a site visit, these visibility splays cannot be achieved in either direction as measured from and along the nearside edge of the carriageway.

3: The Highway Authority may reconsider a revised proposal, where appropriate visibility splay information is provided on both approaches, taken from the proposed vehicular access location:

i. A Highway Boundary Plan should be obtained from ECC Highway Records to establish the line of the highway boundary to the front of the development site splay distance in both directions as measured from and along the nearside edge of the carriageway to establish whether or not the appropriate visibility splays can be achieved. Email address Highway.Status@essexhighways.org \*

ii. A Site Access as Proposed Layout Plan, shall be provided, which shows the appropriate clear to ground visibility splays in both directions together with the extent of the highway boundary, with a minor or "X" distance of 2.4 metres by "Y" distance, measured from and along the nearside edge of the carriageway:

a. maximum "Y" distance for vehicles travelling along Hungerdown Lane on the approach to the proposed access (vehicles approaching from the south).

b. maximum "Y" distance for vehicles travelling along Hungerdown Lane on the non-approach to the proposed access (vehicles approaching from the north-east).

iii. The formal extent of highway coloured on the above drawing, as the visibility splay must be achieved within the limits of public highway and/or land in the control of the applicant.

\*Where there is a roadside ditch or pond, that ditch or pond (even if it has been piped or infilled) would not in the majority of circumstances form part of the highway. Often, roadside ditches, which are apparent on the ground are not indicated on the Ordnance Survey Mapping. The same applies to historic ditches. Therefore, any ditches (including historical) and ponds should also be marked on the drawing.

The Highway Authority reserves making a recommendation until such time as the above information has been considered and provided.

### **3. Planning History**

07/01775/FUL	Polytunnels for the protection of the soft fruit grown there.	Approved
09/00443/FUL	Poly tunnel for production of soil grown strawberries.	Approved

21/00152/COUNOT	Proposed conversion of an agricultural building into a dwelling.	Prior Approval Not Required	10.03.2021
21/01903/FUL	Proposed replacement of an agricultural building and glasshouses with a three bed bungalow (in lieu of Prior Approval for conversion into a dwelling subject of application 21/00152/COUNOT)	Approved	22.02.2022

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

##### **National Planning Policy Framework July 2021 (NPPF)**

##### **National Planning Practice Guidance (NPPG)**

*Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)*

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP7 Place Shaping Principles

*Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)*

- SPL1 Managing Growth
- SPL3 Sustainable Design
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- DI1 Infrastructure Delivery and Impact Mitigation
- HP5 Open Space, Sports & Recreation Facilities
- CP1 Sustainable Transport and Accessibility

Essex County Council Car Parking Standards - Design and Good Practice

## **Status of the Local Plan**

Planning law requires that decisions on 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 (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

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 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, Paragraph 11 d) of the Framework requires granting 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 (what is often termed the 'tilted balance').

The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

## **5. Officer Appraisal (including Site Description and Proposal)**

### **Site Description**

The site is situated on the northern side of Hungerdown Lane, close to its junction with Tile Barn Lane, and forms one of numerous properties developed as part of the Foxash Estate, a Land Settlement scheme developed immediately post First World War. The settlement scheme was disbanded in the 1990's, since when numerous holdings have developed as alternative commercial businesses. The character of the area is therefore one of residential properties set within large plots positioned in a uniform manner between Ardleigh and Lawford.

### **Relevant History**

In March 2021, the Council deemed that prior approval was not required for conversion of an agricultural building into a dwelling on land at 71 Hungerdown Lane, Lawford, planning reference 21/00152/COUNOT.

Planning permission was granted under planning reference 21/01903/FUL for the replacement of an agricultural building and glasshouses with a three bed bungalow (in lieu of Prior Approval for conversion into a dwelling subject of application 21/00152/COUNOT)

### **Description**

This application seeks planning permission for the replacement of an agricultural building and glasshouses with a three bed bungalow (in lieu of Prior Approval for conversion into a dwelling subject of application 21/00152/COUNOT). Variation to planning permission granted under reference 21/01903/FUL with amended access.

This is not a variation of condition application, it is seeking a fresh planning permission for this proposal.

The changes to the previously approved application are the following:

- Changes to the fenestration mainly to the rear of the dwelling
- Introduction of a 900mm picket fence along the boundary
- Introduction of the patio to the rear
- Alternative access and the provision of a consolidated driveway along an existing track, the alternative position of two car parking spaces, turning facility now shown
- Landscaping scheme - no changes in ground levels and no trees or hedges to be removed

*The proposed picket fence around the boundary is 0.9 metres in height and therefore does not require planning permission as it is under 1 metre in height and has not been assessed as part of this application.*

*The proposed patio has also not been assessed as part of this application as planning permission is not required.*

### Assessment

The main planning considerations are:

- Principle of Development;
- Layout, Scale and Appearance;
- Neighbouring Amenities;
- Landscaping
- Highway Safety and Parking Provision
- Financial Contribution - Open Space
- Financial Contributions - Recreational Disturbances;
- Representations

### Principle of Development

This application site is located outside the settlement development boundary however this application is a resubmission of approved application 21/01903/FUL. This application seeks changes only to the access and fenestration and landscaping of application 21/01903/FUL and therefore the principle of development is acceptable subject to the detailed consideration below.

### 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. Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout, create a unique sense of place. Paragraph 127 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. Furthermore, Policy PPL3 of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond seek to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.

The scale and layout of the dwelling has been assessed under application reference 21/01903/FUL. Externally its appearance would comprise of facing brickwork with blue engineering brick to cills with blue/black slate roof, it is considered that the materials are considered appropriate in this location. The siting and footprint of the proposed building is an 'I' shape and there are a mixture of dwellings along Hungerdown Lane and therefore it is considered that the proposed siting and footprint is acceptable.

The proposed fenestration changes are located to the rear elevation of the proposed dwelling. As the proposed changes to the fenestration is to the rear, the changes will not be visible from the streetscene and therefore are not considered visually harmful.

The proposed alternative access has been relocated from directly adjacent to number 71 Hungerdown Lane to further south east along Hungerdown Lane. The relocated access will utilise an existing agricultural track accessed from Hungerdown Lane. In terms of visual appearance, as the proposed dwelling will utilise the existing track it is not considered to cause any material visual harm.

#### Impact upon Neighbouring Amenities

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 71 Hungerdown Lane.

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 three or more bedroom dwelling should provide a minimum of 100 square metres. The block plan demonstrates that sufficient private amenity space is provided in line with Policy LP4 of the 2013-2033 Local Plan.

Overall the proposal 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.

#### Highway Safety and Parking Provision

Paragraph 108 of the National Planning Policy Framework 2019 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SPL3 Part B of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking.

Furthermore, Policy PPL10 of the Local Plan states that proposals for new development should consider the potential for renewable energy generation, appropriate to the site and its location, and should include renewable energy installations, or be designed to facilitate the retro-fitting of renewable energy installations.

The EPOA Parking Standards 2009 require that for dwellings with 2 or more bedrooms, a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. The proposed plan shows a garage and parking bays.

Essex Highways Authority have been consulted on this application and have stated that it is noted that this application seeks to replace the agricultural building, with a three-bed bungalow and an amended vehicular access from Hungerdown Lane whereby the previous application was sharing/ utilising the existing vehicular access. The proposed location of the vehicular access is an opening in a hedge and the access is unmade, no hard surface and appears to be shared with the

neighbouring property to the south and provides an informal access to the garden of No. 71 Hungerdown Lane. The Highway Authority therefore object to the proposed access as based on the information provided the applicant has failed to demonstrate adequate visibility splays from the proposed access in accordance with the speed of the road, to the satisfaction of the Highway Authority. The lack of such visibility would result in an unacceptable degree of hazard to all highway users to the detriment of highway safety.

In regards to the amended parking spaces, as the proposal is served by two spaces which are in line with Essex Parking Standards and the turning area is considered acceptable in terms of parking provision.

### Trees and Landscaping

Paragraph 131 of the NPPF sets out the importance of trees and the contribution they make to the character and quality of urban environments. It states that planning policies and decisions should ensure that opportunities are taken to incorporate trees in developments and that existing trees are retained wherever possible. Policy LP4 relates to housing layout and states; to ensure a positive contribution towards the District's 'sense of place', the design and layout of new residential developments will be expected to incorporate and maximise the use of green infrastructure, verges, trees and other vegetation.

The application site and surrounding area is currently covered in derelict glasshouses that are no longer in agricultural/horticultural use. There are no trees or other significant vegetation on this part of the application site.

The proposed vehicular access utilises an existing entrance from the highway. There is a mature and established Field Maple close to the access point and whilst the tree is an attractive feature in its setting its shape, form and condition are such that it does not merit formal legal protection by means of a tree preservation order. The installation and construction of the remainder of the access road will not adversely affect any existing trees or other vegetation.

As the site cannot be seen from a public place there is no public benefit to be gained by new soft landscaping associated with the development proposal.

### Financial Contribution - Open Space

The Council's Open Spaces Strategy (2017) identifies the nature of any existing surpluses and deficiencies and provides size and quality standards for the provision of future open spaces and green infrastructure in the District. This is reflected in the Policies HP3, HP4 and HP5 of the 2013-2033 Local Plan. Specifically, Policy HP 5 states that, where new development would be better served by existing open space within an accessible distance, a financial contribution in lieu of on-site provision will be sought towards any necessary improvement or expansion of existing facilities.

There is currently a deficit of -3.44 hectares of equipped play/open space in Lawford. No contribution is being requested from Open Spaces on this occasion.

### Financial Contributions - Recreational Disturbances

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 legal obligation was secured as part of the previously approved application and the contribution has been paid in compliance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the 2013-2033 Local Plan and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

### Representations

Lawford Parish Council have not commented on this application.

No letters of representation have been received.

## **6. Recommendation**

Refusal - Full

## **7. Reasons for Refusal**

- 1 Paragraph 108 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 111 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy SPL3 (Part B) of the Adopted Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking. Adopted Local Plan Policy CP2 states proposals will not be granted planning permission if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.

The existing track proposed as access to the new dwelling is currently used for agricultural purposes and the dwelling would intensify this use. The applicant has failed to demonstrate adequate visibility splays from the proposed access in accordance with the speed of the road, the lack of such visibility would result in an unacceptable degree of hazard to all highway users to the detriment of highway safety and contrary to the above national and local planning policies.

## **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 discussing those with the Applicant. 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 reason(s) for the refusal, approval has not been possible.

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