

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case officer recommendation:	AP	9/11/2023
Planning Manager / Team Leader authorisation:	ML	09/11/2023
Planning Technician final checks and despatch:	JJ	09/11/2023

Application: 23/01269/FUL **Town / Parish:** Frinton & Walton Town Council

Applicant: Mrs Donald Barber - Fenn Wright

Address: 88 Woodberry Way Walton On The Naze Essex

Development: Proposed replacement of existing bungalow with 2 storey dwelling.

1. Town / Parish Council

Frinton and Walton Town Council No comments received

2. Consultation Responses

n/a

3. Planning History

23/00760/FUL	Erection of 1.5 storey chalet style bungalow following demolition of existing bungalow.	Withdrawn	12.07.2023
23/01269/FUL	Proposed replacement of existing bungalow with 2 storey dwelling.	Current	

4. Relevant Policies / Government Guidance

National:

National Planning Policy Framework July 2023 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

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

SP7 Place Shaping Principles

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

DI1 Infrastructure Delivery and Impact Mitigation

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation

CP1 Sustainable Transport and Accessibility
CP3 Improving the Telecommunications Network

Supplementary Planning Documents
Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)
Essex Design Guide

Local Planning Guidance
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), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) 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.

Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

5. Officer Appraisal

Proposal

The application seeks full planning permission for the demolition of the existing bungalow and its replacement with two storey house with single storey rear projection and integral garage.

The replacement dwelling is sited in a similar position to the existing bungalow providing for off road car parking and private amenity space.

The site falls within the Settlement Development Boundary of Frinton, Walton and Kirby Cross, as defined in the Local Plan.

Principle of Development

The proposal involves a replacement of the existing dwelling within the defined settlement boundary for Frinton, Walton and Kirby Cross, therefore the principle is acceptable subject to the detailed considerations below.

Design and Appearance

The proposed dwelling will be sited in a similar position to the existing dwelling at the eastern end of the application site. The location of the application site and its immediate surroundings including neighbouring dwellings brings about a design that relates to its surroundings, in form and design.

The approach maintains a suitable separation distance from 86 and 90 Woodberry Way, the closest neighbouring properties. The proposed development also respects the scale of neighbouring development in the immediate area. The new dwelling uses materials and design details seen locally, such as mardale antique red brick, eternite slate roof, UPVC double glazed windows and UPVC/Aluminium/Composite doors all finished in Anthracite grey.

There are no trees or other significant vegetation in the front garden. In the rear garden, close to the rear elevation of the existing dwelling there is a small group of trees comprising of Elder and a culinary plum species. The trees are in poor condition and do not feature prominently in the public realm. Consequently, they do not merit retention or formal legal protection by means of a tree preservation order and will be removed as shown on drawing no. DB23021/102. Considering the proposed design and layout of proposed development there is little opportunity for, or public benefit to be gained from new soft landscaping associated with the proposed development.

The scale, layout and design of the new dwelling is not considered to cause any adverse impacts or material harm to visual amenity.

Impact to Residential Amenities

The proposal is a distance of 0.6 metres from the northern side boundary shared with 86 Woodberry Way and the proposal is a distance of 1.5 metres reducing to 1.2 metres from the southern side boundary shared with 90 Woodberry Way. Due to the proximity to neighbouring dwellings the sunlight/daylight calculations specified in the Essex Design Guide have been applied. The 45 degree line in plan intercepts the side facing windows of both neighbouring dwellings. The 45 degree line in elevation however does not intercept any side facing windows of 90 Woodberry Way and less than 50% of only the ground floor openings at 86 Woodberry Way are intercepted by the 45 degree line in elevation and therefore the loss of light that the proposal will cause is not considered so significant as to justify refusing planning permission on these grounds.

The change in design from the existing bungalow to a two storey house, including the location of the first floor windows on the north west rear elevation, gives rise to reference to Rear Privacy as detailed in the Essex Design Guide. Where new development backs on to the rear of existing housing, as in this case where the new development backs onto the rear of the bungalows in Rainham Way, existing residents are entitled to a greater degree of privacy to their rear garden boundary. Where the rear face of the new dwelling is approximately parallel to those of the existing homes, the rear of the new dwelling may not encroach any closer than 15m to an existing rear boundary – even though with a closer encroachment, 25m between the rears of the houses could still be achieved. The rears of houses may be positioned more closely together than stipulated above if one or both of the houses concerned is designed so as not to overlook the other. This would require an intervening fence or other visual barrier set above eye-level between facing ground-floor windows.

In this case, the ground floor of the proposed dwelling is a minimum distance of 17.1 metres from the existing rear boundary of the dwelling at 103 Rainham Way, situated immediately behind the application site, although the recommended distance has not been met, an existing intervening fence with mature vegetation on both sides providing a visual barrier between the ground-floor windows.

A minimum distance of 18.9 metres and a maximum distance of 19.63 metres is achieved from the proposed first floor rear elevation to the existing rear boundary of 103 Rainham Way and a total distance of at least 25 metres between the proposed first floor rear elevation and the rear elevation of 103 Rainham Way is achieved meeting the requirements of the Essex Design Guide. Consideration is also given to the use of the rear facing first floor rooms which are bedrooms and less likely to be used for habitation during the day.

Policy LP3 requires compliance with the nationally described space standards. This standard deals with internal space within new dwellings and is suitable for applications across all tenures. It sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height. A two bedroom, four person two storey dwelling requires a minimum of 79 square metres of gross internal floor space which includes built in storage of 2 square metres. From the plans submitted the proposal meets the requirements of the space standards. It is also considered that the internal layout is appropriate, with all habitable rooms having adequate natural light.

200 square metres of private amenity space will be retained which is considered more than adequate for a dwelling of this size.

Access, Parking and Highway Safety

The existing dwelling does not currently benefit from off road car parking and therefore the proposal will improve this position by providing two off road car parking spaces that will utilise an existing dropped access, one car parking space will meet the current minimum car parking standards where one space measures 5.0 metres x 2.5 metres and can be provided on the improved driveway and one space will be created in the new garage. The new garage also meets the minimum car parking standards where a single garage should measure 7 metres x 3 metres internally.

Renewable Energy

Chapter 14 of the National Planning Policy Framework supports the transition to a low carbon future in a changing climate while Policy PPL10 of the Local Plan supports renewable energy generation and energy efficiency measures for residential development.

No energy efficiency measures have been submitted with the planning application and therefore a condition to secure minimum measures of a suitable electric vehicle charging point required to support sustainable transport modes, a water-butts and compost bin, agreement of heating for the dwelling and a scheme for waste reduction will be secured on the grant of planning permission to reduce the demand for fossil fuels which are a finite resource and release carbon into the atmosphere and accelerate global warming contributing to climate change.

Drainage and Sewerage

Policy PPL5 states that all new development must make adequate provision for drainage and sewerage.

The sewerage from the proposed dwelling will be connected to the mains sewer which is considered the preferred approach and acceptable.

The proposal is considered a minor development where there is no requirement to consult Essex County Council for sustainable drainage planning advice. Sustainable Drainage Systems (SuDS) are designed to replicate natural drainage systems, to drain surface water run-off, and in this case infiltration within the site, which will need to meet building regulation standards will be installed and is considered acceptable.

Financial Contribution – Recreational Disturbance and Open Space

Financial contributions are not sought in relation to Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or Open Space and Play as any harm brought about as a consequence of the new dwelling is no more than the previous dwelling that occupied the site. Effectively this is a replacement dwelling and so it is not necessary to secure any financial contributions.

Other Considerations

The Council's Environmental Protection team were consulted on the previous application (23/00760/FUL) which was subsequently withdrawn and they recommended conditions relating to the management of construction activities such as the operating hours and prohibiting the burning of materials on site. It follows that the proposal under consideration here is not substantially different and therefore a comprehensive pre-commencement planning condition that seeks to manage all the construction activities on site, including the demolition of the existing bungalow will be imposed on the grant of planning permission as will a condition prohibiting the burning of materials on site.

Frinton and Walton Town Council have not provided a response to this application, however it is noted that they recommended approval of the proposal put forward for the replacement dwelling under reference 23/00760/FUL in June of this year of which the application was subsequently withdrawn.

No other representations have been received.

Conclusion

In the absence of any material harm resulting from the development, the application is recommended for approval.

6. Recommendation

Approval - Full

7. Conditions

1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The development hereby permitted shall be begun not later 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 Section 51 of the Planning and Compulsory Purchase Act 2004.

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the permission becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk Enforcement Action proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

2 APPROVED PLANS & DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

The approved red line plan drawing is drawing no. DB23021/001 received 14 September 2023

drawing no. DB23021/102

drawing no. DB23021/103

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

3 FURTHER APPROVAL - CONSTRUCTION MANAGEMENT TO BE AGREED (PRE COMMENCEMENT)

CONDITION: Prior to the commencement of development details of the construction methodology and timetable shall be submitted to and approved, in writing, by the Local Planning Authority. This shall incorporate the following information:-

- a) Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site.
- b) Details of the loading/unloading/storage of construction materials on site, including details of their siting and maximum storage height.
- c) Details of how construction and worker traffic and parking shall be managed. This shall include routing of all traffic and any directional signs to be installed and where.
- d) Details of any protection measures for footpaths and trees surrounding the site.
- e) Details of any means of access to the site during construction.
- f) Details of the scheduled timing/phasing of development for the overall construction period.
- g) Details of measures to control the emission of dust and dirt during construction, and including details of any wheel washing to be undertaken, management and location it is intended to take place.
- h) Details of the siting of any on site compounds and portaloo's.
- i) Details of the method of any demolition to take place, including the recycling and disposal of said materials resulting from demolition.
- j) Site waste management plan (that shall include reuse and recycling of materials)
- k) Scheme for sustainable construction management to ensure effective water and energy use.
- l) Scheme of review of complaints from neighbours.
- m) Registration and details of a Considerate Constructors Scheme

The said methodology as may be approved shall be implemented in its entirety and shall operate as may be approved at all times during construction.

REASON: To minimise detriment to nearby residential and general amenity by controlling the construction process to achieve the approved development. This condition is required to be agreed prior to the commencement of any development as any construction process, including site preparation, by reason of the location and scale of development may result adverse harm on amenity.

NOTE/S FOR CONDITION:

You are strongly advised to discuss this condition with the Local Planning Authority and if possible/available local residents likely to be affected by this development prior to submission of details.

- 4 No materials produced as a result of the site development or clearance shall be burned on site.

Reason - To protect the amenity of nearby residential properties.

5 ACCESS MATERIAL

CONDITION: The access/s hereby approved shall have a bound material surface and shall be laid out for a minimum distance of 5 metres from the edge of the carriageway prior to first use. The bound material as implemented shall then be retained thereafter.

REASON: In the interests of highway safety to prevent hazards caused by loose materials on the highway.

NOTE/S FOR CONDITION:

Carriageway is the part of a road intended for vehicles rather than pedestrians normally define by kerb if available or edge of a bound surface. It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense.

6 AGREEMENT OF MEASURES TO IMPROVE SUSTAINABILITY OF DEVELOPMENT

CONDITION: No development shall commence above slab level until) a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include as a minimum:-

- An electric car charging point per dwelling
- Agreement of a scheme for water conservation including greywater recycling and rainwater capture/re-use for new dwellings.
- Agreement of a scheme to achieve as far as possible a water consumption rate of not more than 110 litres, per person, per day.
- Agreement of heating of each dwelling/building
- Agreement of scheme for waste reduction
- Provision of a fibre optic broadband connection to the best possible speed installed on an open access basis and directly accessed from the nearest exchange, incorporating the use of resistant tubing. (If the applicant is unable to achieve this standard of connection, and can evidence through consultation that this would not be possible, practical or economically viable an alternative superfast (i.e. will provide speeds greater than 30mbps) wireless service will be considered.)

The scheme shall be fully implemented prior to the first occupancy of the development unless otherwise agreed in writing by the Local Planning Authority. The scheme shall be constructed and the measures provided and made available for use as may be agreed and thereafter shall be maintained.

REASON: To enhance the sustainability of the development through reduce need, better use or savings in the use of water, energy and resources; reduce harm to the environment; and result in wider public benefit in accordance with the NPPF.

NOTES FOR CONDITION:

Slab level normally refers to the concrete slab supported on foundations or directly on the subsoil and is used to construct the ground floor of the development. In any other case, please assume slab level to be the point before any walls and/or development can be visualised above ground level or seek confirmation from the Local Planning Authority for your development.

Broadband provision is included to ensure the development is able to be equipped with high speed broadband to enable opportunities for web-based communication and homeworking reducing the need for unsustainable travel.

A water consumption rate of not more than 110 litres, per person, per day adopted as Planning Policy and as imposed by this condition will direct change the building regulations water consumption rate to match as a result of this policy. The introduction of effective utilities, rainwater capture for watering the garden, Aerators to taps and other water saving options can be considered.

8. Informatives

Positive and Proactive Statement

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.

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