

DELEGATED DECISION OFFICER REPORT

| AUTHORISATION | INITIALS | DATE |
|--|-----------------|-------------|
| Case officer recommendation: | AL | 10/11/2023 |
| Planning Manager / Team Leader authorisation: | JJ | 10/11/2023 |
| Planning Technician final checks and despatch: | JJ | 10/11/2023 |

Application: 23/00646/FUL **Town / Parish:** Ardleigh Parish Council

Applicant: Mr Sam Garnham

Address: Kalm Oak Nursery Hunters Chase Ardleigh

Development: Change of use of existing nursery/horticultural land to residential curtilage to allow for an extension to the private garden land associated with the dwelling.

1. Town / Parish Council

ORIGINAL COMMENTS ON ANNEXE APPLICATION:

Ardleigh Parish Council The Council would request a restriction that this must not become a separate dwelling and remain in use for the agreed purpose as ancillary to the main dwelling.

NO FURTHER COMMENTS RECEIVED IN RELATION TO CHANGE OF USE OF LAND REVISED APPLICATION

2. Consultation Responses

Environmental Protection No comments received.

3. Planning History

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|-----------------|---|---------------------|------------|
| 86/01510/FUL | Temp siting of residential caravan for limited period of one year to obtain agricultural viability | Approved | 02.12.1986 |
| 87/01959/FUL | One det dwelling (related to horticultural nursery) | Approved | 09.02.1988 |
| 89/01987/FUL | Siting of residential caravan to oversee agricultural holding | Approved | 30.03.1990 |
| 96/00761/FUL | Erection of garage adjacent to existing dwelling | Approved | 11.07.1996 |
| 09/60371/HOUENQ | Proposed workshop & store | Permission Required | 27.02.2009 |
| 21/00860/FUL | Removal of condition 2 to remove the agricultural tie condition from approved application TEN/1959/87 which was granted for one dwelling. | Approved | 29.10.2021 |
| 22/01450/FUL | Erection of one single storey dwelling following removal of existing silo and two single garages. | Withdrawn | 20.01.2023 |

4. Relevant Policies / Government Guidance

National:

National Planning Policy Framework July 2021 (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
SP3 Spatial Strategy for North Essex
SP7 Place Shaping Principles

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

SPL1 Managing Growth
SPL3 Sustainable Design
PPL3 The Rural Landscape

Draft Ardleigh Neighbourhood Plan 2020 – 2033 August 2022 (not yet adopted)

GDP General Approach to Development
EP Natural, Built & Historic Environment

Local Planning Guidance

Essex Design Guide

5. 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.

6. Neighbourhood Plan

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>. In summary, without prejudice, the weight that should be applied to Neighbourhood Plans can be understood as follows:

- Stage 1: Designated neighbourhood area (Limited Weight)
- Stage 2: Preparing a draft neighbourhood plan (Limited Weight)
- Stage 3: Pre-submission publicity and consultation (Limited Weight)
- Stage 4: Submission of a neighbourhood plan (Limited Weight)
- Stage 5: Independent Examination (Limited/Significant Weight)
- Stage 6: Referendum (Significant Weight)
- Stage 7: Adoption by LPA (Full Weight)

7. Ardleigh Neighbourhood Plan – Examination Stage

On the 14th of June 2023 a Planning Inspector was appointed as the Examiner for the Ardleigh Neighbourhood Plan. The Examination for the Ardleigh Neighbourhood Plan formally opened on Wednesday 12th July 2023.

On the 18th of August, the Examiner sent the Council an Interim Note of Findings which detailed several questions and matters of clarification.

Therefore, the Ardleigh Neighbourhood Plan, and any relevant policies therein, can be understood as reaching 'Stage 4' in terms of the weight that can be attributed to it in the decision-making process, and approaching 'Stage 5' in the near future.

Where relevant, the neighbourhood plan policies are listed in the policies list and are referred to within the report below.

8. Officer Appraisal (including Site Description and Proposal)

Site Description

The application relates to the property known as Kalm Oak, located along the southern section of Hunters Chase, within the Parish of Ardleigh. The surrounding area is largely rural in character, with large areas of grassed and agricultural land. However, the immediate surrounding area sees sporadic residential development. The site lies outside of the Ardleigh Settlement Boundary as defined within the Adopted Tendring District Local Plan 2013-2033 and Beyond.

Description of Proposal

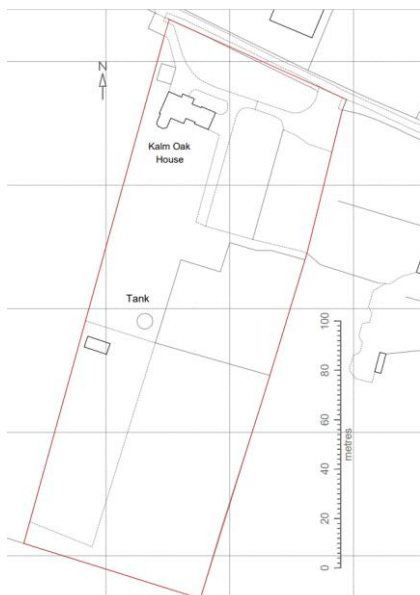
This application seeks full planning permission for the change of use of the land surrounding the dwelling to allow for an extension to the residential curtilage / garden land.

Assessment

The main considerations relevant to the assessment of the proposed development are the impact of the change of use of the land to extended garden on the character of the area and landscape character.

Planning permission was granted in 1988 for the dwelling, subject to an agricultural occupancy condition in conjunction with the use of the land as a horticultural nursery. Under planning application reference 21/00860/FUL permission was granted (copy scanned to this file) for the removal of Condition 2 to remove the agricultural tie from approved application TEN/1959/87 (copy of original consent scanned to this file).

21/00860/FUL Site Plan



Current Application Site Plan



The previous application for the removal of the occupancy condition encompassed the entire site subject of this application, plus the land to the rear (outlined in blue within this current application). Whilst application 21/00860/FUL dealt with the removal of the agricultural tie and approved the use of the entire site as residential, this application seeks to secure the extended garden land associated with the dwelling at Kalm Oak.

Paragraph 130 of the National Planning Policy Framework (NPPF) requires that developments are sympathetic to local character and maintain a strong sense of place. Adopted Policy SP7 of Section 1 of the 2013-33 Local Plan seeks high standards of development which responds positively to local character and context. Adopted Policy PPL3 confirms the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance.

It is not unreasonable to consider the area of land immediately to the rear of the dwelling as garden area for the property. The portion of the site subject of the proposed garden extension comprises the land in between the existing dwelling at Kalm Oak and the neighbouring dwelling to the east, together with some land to the rear. The rearmost part of the site does not form part of the application. The existing in-and-out driveway and site frontage establishes the appearance of the site as a one large residential plot from street scene views. The relationship and location of the land with the existing dwelling and neighbour will not result in any wider landscape impact. The presence of existing structures and outbuildings also contributes to the more residential / urban appearance of the site itself.

The evolution of the site and cessation of the nursery use, together with the site characteristics will not result in any significant harm to the character of the area, or the surrounding landscape character.

Subject to conditions removing permitted development rights for the erection of outbuildings (Schedule 2 Part 1 Class E) and fencing and enclosures (Schedule 2 Part 2 Class A) to allow the LPA further control over any future development in the interests of the semi-rural character of the area, the extended garden will not result in any overriding harm to the character or appearance of the rural landscape.

Representations

Ardleigh Parish Council have not commented on the amended application.

No letters of representation received.

Conclusion

For the reasons set out above, the extension to the residential curtilage and garden land associated with Kalm Oak will not result in any harm to the character of the area or wider landscape character, in compliance with Local Plan Section 1 Policy SP7 and Section 2 Policy PPL3.

9. Recommendation

Approval - Full

10. Conditions

1. COMPLIANCE: TIME LIMIT

CONDITION: 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.

NOTE/S FOR CONDITION:

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

2. COMPLIANCE: 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.

- Amended Site Plan received 8.9.23.
- 0723-05 Amended Proposed Block Plan received 5.9.2023.
- 6330/1 Amended Topographical Survey received 5.9.2023.

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

3. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF FENCE PD

CONDITION: Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no provision of fences, walls or other enclosures, shall be erected forward of the front elevation of the dwelling hereby approved.

REASON: It is necessary for the Local Planning Authority to be able to consider and control further development in the interests of protecting the semi-rural character of the area.

4. SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PD FOR OUTBUILDINGS

CONDITION: Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2016 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no buildings, enclosures, swimming or other pool shall be erected except in accordance with drawings showing the design and siting of such building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

REASON: It is necessary for the Local Planning Authority to be able to consider and control further development in the interests of protecting the semi-rural character of the area.

11. 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.

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| 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 |