

## **DELEGATED DECISION OFFICER REPORT**

| <b>AUTHORISATION</b>                           | <b>INITIALS</b> | <b>DATE</b> |
|------------------------------------------------|-----------------|-------------|
| Case officer recommendation:                   | BB              | 10/01/2024  |
| Planning Manager / Team Leader authorisation:  | ML              | 12/01/2024  |
| Planning Technician final checks and despatch: | ER              | 12/01/24    |

**Application:** 23/01475/ADV **Town / Parish:** Frating Parish Council

**Applicant:** Mr Sam Caslin - Taylor Wimpey London

**Address:** Land adjacent Frating Caravan Park Main Road Frating

**Development:** Consent to display 2no. V formation non-illuminated sign boards installed outside the hedgeline facing the A133 next to entrance gates.

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

No comments received

### **2. Consultation Responses**

ECC Highways Dept  
07.12.2023

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

The Highway Authority will protect the principal use of the highway as a right of free and safe passage of all highway users.

It is noted from the application form that this appears to be a retrospective application, and the present signs are mounted on two posts each and are in excess of 3 metres in height and just under 2 metres in width on a section of road that forms a strategic route in the County's Route Hierarchy and is subject to a de-restricted speed limit of 60mph.

It does however, present a hazard should a vehicle strike it. As indicated above the road is de-restricted and located too close to the edge of carriageway and there is an increased risk of a vehicle straying into the object from either direction. In addition to the obvious risk of injury from a direct strike there is also a risk that should it be struck; it could remain standing (but compromised) meaning it could collapse at a later time or with a minor subsequent strike.

In addition, the sign is located adjacent to the vehicular access to Morehams Hall where slow-moving agricultural vehicles require access and the size and position of the signs could compromise visibility from the proposed access for both emerging and approaching vehicles and would result in an unacceptable degree of hazard to all road users to the detriment of general highway safety.

The Highway Records has been consulted and based on the supporting information; part/all of the proposal has encroached onto highway land. It is unlawful to construct or enclose highway land and as such the Highway Authority cannot sanction the proposal.

The proposal creates unacceptable degree of hazard to all road users to the detriment of general highway safety and an obstruction on the highway where members of the public are entitled to pass and repass over highway land unobstructed, and if permitted would set a precedent for future similar applications. It is therefore contrary policy DM1 and DM14 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: Highway Land has highway rights which pass over the land. These rights do not extinguish over time.

2: It is not uncommon for land to be under the ownership of a third party, i.e., the sub-soil, but also be public highway.

3: A Section 50 Licence to place objects on or in the highway would also be a requirement. The licences are used for many different items such as or similar to 'Ornate village signs/monuments/ Statues. The applicant would need to provide copies of Public Liability Insurances, drawings, and there are two types of licences, 5 years, and 25 years. The link to this: [www.essexhighways.org/applications/section-50-street-works-licences](http://www.essexhighways.org/applications/section-50-street-works-licences) and it will advise on the process and the fees, for a 5-year licence it would be in the region of £1,000.

4: If the applicant wants to place a sign(s) on a road with a speed limit in excess of 30-mph, then it must be designed with passively safe posts, alternatively they will need to:

a. Demonstrate its design capability and provide further details such as base calculations; confirmation of depth and construction of the base, wind loading; how the sign is affixed etc.

b. Demonstrate whether Vehicle Restraint System (VRS) is required by submitting a Road Restraint Risk Assessment Process (RRRAP) or alternative risk assessment which would require Road Safety and technical approval from the Asset and Highway Engineering teams.

Note: The use of Vehicle Restraint System (VRS) as protection really must be as a last resort having considered all other mitigation measures. If it is possible to install it is likely that the cost of VRS would be around £20,000 - £30,000, excessive for a temporary sign. The posts look to be greater than 90mm diameter and if not passive then they would require some form of protection from a VRS, however, you will not get a VRS system to fit at this restricted location.

In terms of finding a solution:

5: Option - If the applicant wants to continue to have a sign in this vicinity, then it will need to be relocated clear of the highway and mounted on passively safe posts.

### **3. Planning History**

|                     |                                                                                                                                         |                   |            |
|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------|-------------------|------------|
| 21/00841/COUNO<br>T | Change of use of agricultural buildings to 5 no. residential dwellings and associated alterations                                       | Determinati<br>on | 23.07.2021 |
| 23/01475/ADV        | Consent to display 2no. V formation non-illuminated sign boards installed outside the hedgeline facing the A133 next to entrance gates. | Current           |            |

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

##### **National:**

National Planning Policy Framework December 2023 ([NPPF](#))

National Planning Practice Guidance ([NPPG](#))

##### **Local:**

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

SP1 Presumption in Favour of Sustainable Development

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

CP2 Improving the Transport Network

Supplementary Planning Documents

[Essex Design Guide](#)

##### **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.

##### **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 (including Site Description and Proposal)**

##### **Application Site**

The site is located adjacent the vehicular access for Morehams Hall and on the grass verge to the north of Main Road (A133). Main Road has a de-restricted speed limit of 60mph.

##### **Proposal**

The application seeks advertisement consent for the retention of 2 no. V formation non illuminated sign boards.

##### **Assessment**

The key considerations of this application will be Design and Appearance, Highway & Public Safety and Other Considerations.

## Design and Appearance

Paragraph 135 of the National Planning Policy Framework 2023 (NPPF) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character and history, including the surrounding built environment, function well and add to the overall quality of the area, and establish or maintain a strong sense of place.

Adopted Tendring District Local Plan Section 1 (TDLPS1) Policy SP7 seeks high standards of design that responds positively to local character and context. Policy SPL3 states development should relate well to its site and surroundings particularly in relation to its siting, height and scale.

The sign is 4 metres in height with a width and depth of 1.8 metres and constructed from metal. The sign is located on a section of highway which consists of some mature trees to the front with open fields behind. Some street furniture exists within the immediate vicinity; however, it is small in stature. The introduction of this sign has interrupted the semi-rural character of the area and by virtue of its size appears as a prominent and harmful feature to the detriment of visual amenity and the character and appearance of the locale.

## Highway and Public Safety

Paragraph 141 of the NPPF states that the quality and character of places can suffer when advertisements are poorly sited and designed. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

Policy CP2 of Part 2 of the Adopted Local Plan 2013-2033 and Beyond, also states that planning permission will not be granted if there would be an unacceptable impact on highway safety.

The sign is situated 3.3 metres away from the edge of a Classified A road. It is located adjacent the vehicular access to Morehams Hall where slow-moving agricultural vehicles may require access and the size and position of the sign's compromises visibility from the proposed access for both emerging and approaching vehicles and would result in an unacceptable degree of hazard to all road users to the detriment of general highway safety.

ECC Highways Authority have been consulted on the application and object to the proposal.

It is also noted that the applicants are advised to seek consent from ECC who own the land before submitting applications on their land.

## Other Considerations

Frating Parish Council have submitted no comments.

No letter of representation has been received.

## Conclusion

The proposal is considered not to respond accordingly to the character and appearance of the locale, nor does it prevent the potential for harm to occur to highway users, which is contrary to the aforementioned national and local policies. The application is therefore recommended for refusal.

## **6. Recommendation**

Refusal - Advertisement Consent

## **7. Reasons for Refusal**

The sign is situated 3.3 metres from the edge of a Classified A road (A133). The sign is 4 metres in height with a width and depth of 1.8 metres. The sign impedes the visibility from an adjacent field access onto the A road which has a de-restricted speed limit of 60mph. Furthermore, the sign is sited

too close to the edge of the carriageway creating an unacceptable degree of hazard to all road users to the detriment of general highway safety.

The sign by virtue of its excessive size and siting results in an incongruous form of development thereby having a detrimental impact to visual amenity and the overall rural character of the area. The proposal is therefore contrary to paragraphs 141 and 135 of the National Planning Policy Framework and policies SP7, SPL3 and CP2 of the Adopted Local Plan 2013-2033 and Beyond.

## **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 determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.

### **Plans and Supporting Documents**

The Local Planning Authority has resolved to refuse the application for the reason(s) set out above. For clarity, the refusal is based upon the consideration of the plans and supporting documents accompanying the application as follows, (accounting for any updated or amended documents):

Drawing No.1464.313.2

## **9. Equality Impact Assessment**

In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic\* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic\* and those who do not, including tackling prejudice and promoting understanding.

It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic\* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

| Protected Characteristics * | Analysis                                                                                    | Impact  |
|-----------------------------|---------------------------------------------------------------------------------------------|---------|
| Age                         | The proposal put forward will not likely have direct equality impacts on this target group. | Neutral |
| Disability                  | The proposal put forward will not likely have direct equality impacts on this target group. | Neutral |
| Gender Reassignment         | The proposal put forward will not likely have direct equality impacts on this target group. | Neutral |

|                                                                    |                                                                                             |         |
|--------------------------------------------------------------------|---------------------------------------------------------------------------------------------|---------|
| Marriage or Civil Partnership                                      | The proposal put forward will not likely have direct equality impacts on this target group. | Neutral |
| Pregnancy and Maternity                                            | The proposal put forward will not likely have direct equality impacts on this target group. | Neutral |
| Race (Including colour, nationality and ethnic or national origin) | The proposal put forward will not likely have direct equality impacts on this target group. | Neutral |
| Sexual Orientation                                                 | The proposal put forward will not likely have direct equality impacts on this target group. | Neutral |
| Sex (gender)                                                       | The proposal put forward will not likely have direct equality impacts on this target group. | Neutral |
| Religion or Belief                                                 | The proposal put forward will not likely have direct equality impacts on this target group. | Neutral |

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