

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case officer recommendation:	AP	17/1/2024
Planning Manager / Team Leader authorisation:	ML	17/01/2024
Planning Technician final checks and despatch:	ER	18/01/2024

Application: 23/00838/VOC **Town / Parish:** Harwich Town Council

Applicant: Mr N Braybrook

Address: 3 Frobisher Road Dovercourt Harwich

Development: Application under Section 73 of the Town and Country Planning Act, to allow a variation of condition 2 (approved plans) of 20/00136/FUL (allowed at appeal) to move the bungalow 1 metre to the south towards Low Road.

1. Town / Parish Council

Harwich Town Council Harwich Town Council recommends a refusal to this application on the grounds that the moving of the bungalow will make an already small back garden even smaller thus reducing the amount of usable amenity space.

2. Consultation Responses

Not applicable

3. Planning History

18/30068/PREAPP	Proposal to erect single storey bungalow & garage on land forming part of garden to front of number 3 Frobisher.		15.05.2018
20/00136/FUL	Proposed erection of new three bedroom detached bungalow and garage to part front garden of 3 Frobisher Road.	Refused (Appeal Allowed)	21.05.2020
23/00838/VOC	Application under Section 73 of the Town and Country Planning Act, to allow a variation of condition 2 (approved plans) of 20/00136/FUL (allowed at appeal) to move the bungalow 1 metre to the south towards Low Road.	Current	

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

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP1 Housing Supply

LP3 Housing Density and Standards

LP4 Housing Layout

CP1 Sustainable Transport and Accessibility

PPL4 Biodiversity and Geodiversity

HP5 Open Space, Sports & Recreation Facilities

DI1 Infrastructure Delivery and Impact Mitigation

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

Site Description

The application relates to a soft landscaped front garden area associated with number 3 Frobisher Road, Dovercourt. The site is rectangular in shape and extends approximately 0.05 hectares in size. 3 Frobisher Road is one of a small cul-de-sac of four bungalows on the corner with Low Road accessed off Frobisher Road via a private driveway. The application site therefore has a road frontage with Low Road which is enclosed by a mature boundary hedgerow.

History

Application 20/00136/FUL was allowed on appeal reference APP/P1560/W/20/3263586 for the erection of a new three bedroom detached bungalow and garage to part front garden of 3 Frobisher Road.

Description of Proposal

This application seeks planning permission for a variation of condition 2 (Approved Plans) of 20/00136/FUL to allow the proposed bungalow to be moved 1 metre to the south, nearer to Low Road.

Assessment

The main considerations of this application will be the visual impact and the impact on residential amenities.

There will be no changes to the bungalow and garage design, scale and appearance previously approved ensuring no material harm to visual amenity. In addition, the private drive used for access will remain the same. A landscaping scheme is still to come forward and this will help assimilate the development into its setting.

The bungalow will move 1 metre closer to Low Road still leaving at least 100 square metres of private amenity space for the occupiers. In moving the bungalow south, it increases the distance from neighbouring properties thereby ensuring no significant impact to neighbouring amenities.

A financial contribution towards the Essex coast recreational disturbance avoidance and mitigation strategy (RAMS) and equipped play/open space was secured under application 20/00136/FUL allowed on appeal under reference APP/P1560/W/20/3263586 via a unilateral undertaking. The unilateral undertaking was linked specifically to that planning application and subsequent appeal, and as work has not commenced on site and the financial contribution has not been paid a new unilateral undertaking has been secured alongside this planning application to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017 and would contribute towards improvements at the play area at Dovercourt Pool Play.

Other Considerations

Harwich Town Council objects to the application and raises concern that moving of the bungalow will make an already small back garden even smaller thus reducing the amount of usable amenity space. This concern is addressed above.

No further representations have been received.

Conclusion

In the absence of any material harm as a result of the development, this application is recommended for approval.

6. Recommendation

7. **Conditions**

1 COMPLIANCE REQUIRED: COMMENCEMENT SECTION 73 TIME LIMIT

CONDITION: The development hereby permitted shall be begun not later the expiration 29 June 2024.

REASON: To comply with the requirements of Section 73 and 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 (if not already commenced) within the timeframe provided unchanged from the permission varied. 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.

Drawing Number 19/11/0050 Revision C.

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 APPROVAL REQUIRED: LANDSCAPING SCHEME

CONDITION: No above ground works shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include for; the retention of the existing southern boundary vegetation; all boundary treatments and any proposed changes in ground levels; and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 - Trees in Relation to Design, Demolition and Construction."

REASON: In the interests of visual amenity and the character and appearance of the area.

NOTE/S FOR CONDITION:

Above ground works 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 above ground works to be the point before any walls and/or development can be visually above ground level or seek confirmation from the Local Planning Authority for your development.

Should the landscape works include any new hedgerow, please consider the following planting for a native hedge. Native hedge: 50% hawthorn, 25% blackthorn (but beware - this can spread into adjacent fields), 15% field maple, 2% holly, 2% wild privet, 2% guelder rose, 2% dog rose, 2% buckthorn.

4 COMPLIANCE WITH DETAILS AND TIMESCALE REQUIRED - LANDSCAPING SCHEME

CONDITION: All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs within the retained or new planting which within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

REASON: To ensure that the approved landscaping scheme has sufficient time to establish, in the interests of visual amenity and the character and appearance of the area.

5 SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PERMITTED DEVELOPMENT FENCES, GATES, WALLS AND ENCLOSURES

CONDITION: Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no provision of fences, gates, walls or other means enclosures, shall be erected on any boundary of the site or forward of the dwelling hereby approved except in accordance with drawings showing the design and siting of such enclosures which shall previously have been submitted to and approved, in writing, by the Local Planning Authority by way of a planning application.

REASON: To enable the Local Planning Authority to retain control over the development in the interests of the amenity of the locality and to safeguard local distinctiveness.

6 No unbound material shall be used in the surface treatment of the vehicular accesses within 6 metres of the highway boundary.

Reason - To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

- 7 Prior to occupation of the development the vehicular parking and garage as shown the approved plan shall be constructed, surfaced and maintained free from obstruction within the site at all times and shall be kept available for parking.

Reason - To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 8 SPECIFIC RESTRICTION ON DEVELOPMENT: REMOVAL OF PERMITTED DEVELOPMENT RIGHTS

CONDITION: Notwithstanding the provisions of Schedule 2 Part 1 Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no extensions, additions, porches or alterations to the dwellings or their roofs shall be carried out and no outbuildings, enclosures, swimming or other pools shall be erected except in complete accordance with details which shall previously have been approved, in writing, by the Local Planning Authority following the submission of a planning application for such development.

REASON: To enable the Local Planning Authority to retain control over the development in the interests of the amenity of the locality and to safeguard local distinctiveness.

- 9 All new driveways and parking areas shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellings.

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.

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

CONDITION: Prior to the commencement of development, a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. The Construction Method Statement shall provide for:

- safe access to/from the site;
- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- wheel washing facilities;
- measures to control the emission of dust and dirt during demolition and construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- details of hours of deliveries relating to the demolition and construction of the development;
- details of hours of site clearance or construction;
- a scheme to control noise and vibration during the demolition and construction phase, including details of any piling operations.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

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.

- 11 The removal of any vegetation shall only be carried out outside of the bird nesting season (March to August inclusive).

Reason - To restrict works to a specific season to prevent disturbance to nesting birds in the breeding season, and so protect the biodiversity of the environment.

- 12 There shall be no discharge of surface water onto the Highway from the private drive.

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.

- 13 Prior to the occupation of the proposed dwelling, the existing private drive shall be re-instated to a suitable standard for its entirety once the building works and the proposed modified road has been completed, to the written satisfaction of the Local Planning Authority.

Reason - To ensure the continued safe passage and accessibility of the users of the existing private drive.

- 14 The proposed boundary planting shall be planted a minimum of 1 metre back from the private road and any visibility splay.

Reason - To ensure that the future outward growth of the planting does not encroach upon the private road or interfere with the passage of users of the private drive, to preserve the integrity of the private drive and in the interests of highway safety.

- 15 The vehicular parking space shall have minimum dimension of 2.9 metres x 5.5 metres.

REASON - To ensure adequate off-street parking provision at all times so that the development does not prejudice the free flow of traffic or the conditions of general safety along the adjacent private drive and highway, or the amenities and convenience of existing local residents.

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.

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017. Please note that any subsequent variation / removal of condition applications (s73 applications) will require a new legal agreement to secure this obligation unless the development has commenced (subject to all necessary condition discharges) and the contribution has already been paid.

Legal Agreement Informative - Open Space/Play Space Contribution

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Public Open Space financial contribution in accordance with Policy HP5 and Policy DI1 of the adopted Tendring District Local Plan 2013-2033 and Beyond. Please note that any subsequent variation / removal of condition applications (s73 applications) will require a new legal agreement to secure this obligation unless the development has commenced (subject to all necessary condition discharges) and the contribution has already been paid.

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