

DELEGATED DECISION OFFICER REPORT

AUTHORISATION		INITIALS	DATE
Planning Officer recommendation:		ER	26/06/2024
EIA Development - Notify Planning Casework Unit of Decision:	NO	N/A	N/A
Team Leader authorisation / sign off:		ML	26/06/2024
Assistant Planner final checks and despatch:		ER	26/06/2024

Application: 24/00637/VOC **Town / Parish:** Frinton & Walton Town Council

Applicant: Mr P Smith

Address: Winter Cottage Edith Road Kirby Le Soken

Development: Application under Section 73 of the Town and Country Planning Act for Variation of Conditions 1 (Approved Plans) of application 23/01741/DETAIL to enable/allow new scheme using masonry construction.

1. Town / Parish Council

FRINTON AND WALTON Recommend approval
TOWN COUNCIL

2. Consultation Responses

Not applicable to this application.

3. Planning History

21/00201/OUT	Erection of a domestic dwelling (resubmission of 15/00477/OUT).	Approved	25.06.2021
23/01741/DETAIL	Reserved matters submission for 21/00201/OUT for erection of one dwelling considering access, appearance, landscaping, layout and scale.	Approved	18.01.2024
24/00637/VOC	Application under Section 73 of the Town and Country Planning Act for Variation of Conditions 1 (Approved Plans) of application 23/01741/DETAIL to enable/allow new scheme using masonry construction.	Current	

4. 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 Local Plan 2013-33 and Beyond (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 made and the Minerals and Waste Local Plans adopted by Essex County Council.

5. **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>

6. **Relevant Policies / Government Guidance**

National:

National Planning Policy Framework (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
SP4 Meeting Housing Needs
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
HP5 Open Space, Sports & Recreation Facilities
DI1 Infrastructure Delivery and Impact Mitigation
LP1 Housing Supply
LP2 Housing Choice
LP3 Housing Density and Standards
LP4 Housing Layout
PPL5 Water Conservation, Drainage and Sewerage
CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice
Essex Design Guide

No emerging or adopted neighbourhood plan

7. **Officer Appraisal (including Site Description and Proposal)**

Site Context

The application site is located within the defined settlement limits of Kirby-le-Soken. The plot is situated on the eastern side of Edith Road, which is a private road and laid to gravel. The site measures 0.06 hectares and is generally level.

The site forms part of the side garden of Trees and has been cleared. The boundaries are marked by close boarded fencing with the site's front boundary currently playing host to temporary fencing.

Proposal

This application seeks planning permission for the variation of condition 01 (Approved Plans) of 23/01741/DETAIL.

The previous reserved matters application (23/01741/DETAIL) was approved for the erection of one dwelling. This application sought approval for those reserved matters which includes access, appearance, landscaping, layout and scale.

Condition 01 of reserved matters approval 23/01741/DETAIL required that the proposed house was constructed in line with the plans and particulars received under that application.

This proposed variation of condition requests approval to make the following changes to the scheme:

- Change of materials from dark brown wood and dark tiles and guttering to cottage red brickwork, oak timber supports, blue/ grey clay plain tile roof, black UPVC windows, doors, fascias, soffits and rainwater goods.
- Detailing to front elevation.
- Change of window sizes and positioning.
- 2no new rooflights
- Change of roof type to side porch (from flat to pitched roof)

Assessment

Appearance

The plans and information provided states that the new house will measure 14.9m by 7.9m and 4.95m in height. The house will be single storey and include two bedrooms, two bathrooms and a large open plan family area (kitchen and lounge). The building will be set back on its plot and will maintain a 1m distance from each of the shared boundaries as well as an appropriate area of private amenity space to the rear which will measure approximately 290m².

The variation of the approved plans will result in the change of materials from dark brown wood and dark tiles and guttering to cottage red brickwork, oak timber supports, blue/ grey clay plain tile roof, black UPVC windows, doors, fascias, soffits and rainwater goods.

The size and scale of the new house conforms to the general character of the area which predominantly consists of bungalows and chalet bungalow type houses. The size of the proposed property is considered appropriate to the plot and will allow for the retention of suitable space between the new house and its boundaries preventing it from appearing cramped or overbearing within the streetscene.

The layout will see the house set back from the front boundary allowing for a sizeable front space which will be used for parking. This approach is mirrored in the surrounding houses who also benefit from large open frontages used for parking. The new house will be set back behind front walls of neighbouring houses which will allow it to comply with the relatively loose building line on this section of Edith Road and further reduces its visual impact. The retention of at least 1m between the new house and its shared boundaries will also allow for it to maintain levels of open space between buildings preventing a cramped appearance.

The immediate area comprises of predominantly single storey houses which vary in terms of design and materials and there is no real uniformity between the houses with them varying between each plot. The proposal will be in keeping with the general character of bungalows within the vicinity; however, the use of a forward-facing gable feature with small terrace area will allow it to establish its own character within the streetscene. The local area is made up of a mixture of houses which vary in materials and due to this diversity the use of brick would act as a suitable contrast and would not be visually harmful to the appearance/ character of the streetscene.

The scale, layout, and appearance of the proposal are acceptable.

Landscaping

The plans from the previous reserved matters submission showed that the front boundary will be marked by low picket fencing and with easily maintained shrubbery/foliage to blend in with neighbouring houses. The rear of the property will remain partially laid to lawn with the rear garden area forming an orchard style meadow garden with a mixture of mature and young trees. This will provide cover from neighbouring properties and promote biodiversity. Following the request for more information pertaining to the front hedge the applicant has confirmed that the preferred hedging will be Yew (*Taxus Baccata*). This will mean 12 plants when planted at 2 per linear metre. Owing to the time of year it is likely they will be potted (5L) and between 60 - 90 cm in height.

The low hedging will appear as a pleasant addition to the site and will aid in reducing the impact of the proposed house as well as copy other sites within the area.

The Council's Tree and Landscape officer was agreeable to this information and confirmed that the details provided in respect of the rear of the building are acceptable.

The changes proposed are only to the design of the building and would not affect any of the existing/proposed landscaped areas. The variation to the condition would not result in a harmful impact in this regard.

Impact to Neighbours

The proposal will incorporate a pitched roof design with a low eaves height of 2.7m and will be sited at least 1m from each of the shared boundaries. The proposal will extend past the rear elevations of neighbouring sites and will therefore be visible from their rear gardens resulting in some disruption to light and outlook already received.

Due to the low height of the eaves and distance from the boundaries the existing boundary fencing between the sites will screen much of the new building reducing much of its impact in this regard. The Sunlight/ daylight calculations from the Essex Design Guide have also been applied to the proposed plans in this regard and in this instance whilst the 45-degree line when drawn in plan would fail the test by encompassing or striking through neighbouring windows, when this has been drawn in elevation it would only strike through the lower walls of the neighbouring houses. The proposal therefore passes the test and in this instance the loss of light and outlook is considered not to be so significant to refuse planning permission here.

Finally, the two neighbouring houses benefit from side facing windows which will face onto the proposal and receive a reduced level of light and outlook. As these windows already look onto the boundary fencing it is considered they already receive some impact and therefore any further disruption from the proposal would be considered unreasonable to refuse planning permission upon here.

The original reserved matters application showed no new rooflights to face any neighbouring houses. This variation to the plans shows that there will be two new rooflights positioned within the side roofslope of the new building. The rooflights would be minor incidents on the roofplane and their positioning within the roofslope means that views out of these openings are minimal and not directly into the neighbouring house, thereby preventing a significant loss of privacy in this regard.

There will be openings in situ along the side elevations of the house; however, these are at ground floor level achieving only limited views which would also be screened by boundary treatment. The loss of privacy in this regard would therefore not be so significant to refuse planning permission upon here.

The proposed change of plans and variation to condition 01 of the earlier planning approval will therefore not result in a harmful impact in this regard.

Highways

The ECC Parking Standards states that where a house comprises of two or more bedrooms that 2no off road parking spaces should be retained which measure 5.5m by 2.9m per space. The new house will be positioned back on its plot allowing the site to successfully include two off street

spaces in line with the above. Edith Road is classed as a "Private Road" and is accessed via Walton Road which is an adopted highway with a speed limit of 30mph through the village of Kirby-Le-Soken.

The previous reserved matters application confirmed that the new access will be 4.5m in width and retained 6m back onto the site. Essex County Council as the Highway Authority were consulted the application and raised no objections to a number of conditions relating to vehicular and pedestrian visibility splays, no unbound materials, no discharge of water and space sizes, which will be imposed upon the permission.

The condition referring to cycle storage was not applicable to this application as it is not shown on the plans provided. The outline planning permission previously contained conditions pertaining to residential travel packs and width of access and therefore they were also not be imposed upon that permission.

This variation of conditions application seeks changes to the design of the new house and does not result in changes to the access/ parking arrangements and therefore would not result in a harmful impact in this regard.

Legal Obligations

The original outline application is subject of a unilateral undertaking agreed under application 21/00201/OUT, securing a proportionate financial contribution in line with Essex Coast RAMS requirements to ensure that this proposal will not have an adverse effect on the integrity of the nearby European sites from recreational disturbance, when considered 'in combination' with other development.

An assessment of the proposal was carried out under the previous outline permission and no contribution was required from Open Spaces on this occasion.

Drainage

Paragraph 180 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 191 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

Policy PPL5 of Section 2 of the Tendring District Local Plan states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.

The outline permission 21/00201/OUT confirms that the new building will be connected to the mains sewer. This is in accordance with the above policy requirements and is therefore considered to be acceptable in the event of an approval.

Other Considerations

Frinton and Walton Town Council recommend approval for the application.

There have been no letters of representation received.

Conclusion

The proposal is therefore considered to be compliant with national and local policy as assessed in the above report. In the absence of material harm resulting from the proposed development the application is recommended for approval.

8. Recommendation

Approval - Reserved Matters/Detailed

9. Conditions

1 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.

24/00637/VOC
Drawing No 103

23/01741/DETAIL
SITE PLAN - REC'D 06/12/23
BLOCK PLAN - REC'D 06/12/23
CONSTRUCTION METHOD STATEMENT - REC'D 06/12/23
DETAILS OF RESERVED MATTERS - REC'D 06-12/23

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.

2 HIGHWAYS CONDITION

CONDITION: Prior to the first occupation of the dwelling, a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

REASON: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

3 HIGHWAYS CONDITION

CONDITION: No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the carriageway.

REASON: To avoid displacement of loose material onto the carriageway in the interests of highway safety.

4 HIGHWAYS CONDITION

CONDITION: There shall be no discharge of surface water onto the carriageway.

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.

5 HIGHWAYS PROVISION OF PARKING AND TURNING

CONDITION: The hereby approved development shall not be first occupied until such time as the areas for purposes of manoeuvring and parking of vehicles has been provided and made functionally available. The area shall then be retained and remain free of obstruction thereafter.

REASON: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking and layout is provided To ensure the provision of adequate on-site space for the parking and manoeuvring of vehicles where on-street parking and manoeuvring would otherwise be detrimental to highway safety.

6 CONSTRUCTION HOURS

CONDITION: No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.

REASON: To protect the amenity of nearby residents.

7 BURNING OF MATERIALS

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

REASON: Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

8 CONTAMINATED LAND

CONDITION - If during construction/demolition works evidence of potential contamination is encountered, works shall cease, and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.

Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;

a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.

b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

c) If no contamination has been discovered during the build, then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

REASON - To ensure that any risks from land contamination to the future users of the land and neighbouring land are minimised.

9 COMPLIANCE WITH DETAILS AND TIMESCALE REQUIRED - LANDSCAPING SCHEME

CONDITION: All changes in ground levels, soft/hard landscaping shown on drawing no TQRQM23338211914419 and detailed within the supporting statement received 06/12/23 and email of 26th December 2023 shall be carried out in full 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 approved, in writing, by the Local planning authority up to the first use/first occupation of the development. Any trees, hedges, shrubs or turf identified within the approved landscaping details (both proposed planting and existing) which die, are removed, seriously damaged or seriously diseased, within a period of 10 years of being planted, or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and same species unless otherwise agreed in writing by the local planning authority.

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.

10. 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.

11. 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

12. Notification of Decision

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,		NO

please specify:

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