

//DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	AL	19/07/2024
EIA Development - Notify Planning Casework Unit of Decision:	N/A	19/07/2024
Team Leader authorisation / sign off:	JJJ	19/07/2024
Assistant Planner final checks and despatch:	ER	19/07/2024

Application: 24/00938/NMA **Town / Parish:** Great Bentley Parish Council

Applicant: Mr Steve Williams - Hills Building Group

Address: Admirals Farm Heckfords Road Great Bentley

Development: Non-Material Amendment to application reference 21/01560/FUL (allowed on appeal) to allow for Plots 1 and 2 to be handed (House Type 8) and Plots 3, 4 and 5 to be amended to square bays (House Type 7).

1. Town / Parish Council

No comments required.

2. Consultation Responses

No consultations required.

3. Relevant Planning History

21/01560/FUL	Proposed erection of six detached dwellings and associated garaging and infrastructure (uplift on original application - 16/00133/OUT that approved the erection of 50 dwellings, garages, roads and associated works)	Refused	28.03.2022
22/00016/REFUSE	Allowed on Appeal APP/P1560/W/22/3297669	Allowed	14.04.2023
23/00882/DISCON	Discharge of condition 3 (Construction Method Statement), 4 (hard landscaping, ground levels and boundary treatments), 16 (Archaeological evaluation), 17 (Landscape and Public Open Space Management Plan including a lighting strategy), 18 (Surface Water Drainage Scheme), 19 (Scheme to minimise the risk of offsite flooding during construction), 20 (Surface Water Drainage system maintenance plan), 24 (Facing Materials and Roofing Materials), and 28 (on-site foul water drainage works) of application 21/01560/FUL allowed on appeal (under appeal ref APP/P1560/W/22/3297669).	Approved	29.11.2023

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. Relevant Policies / Government Guidance

Not applicable.

6. Officer Appraisal (including Site Description and Proposal)

Overview and Main Considerations

Section 96A of the Town and Country Planning Act allows a Local Planning Authority, on application, to make a change to any planning permission if it is satisfied that the amendment proposed is non-material (NMA). The key test as to the acceptability of an application for a non-material change is whether the change is material to any development plan policy. If the answer is 'no', three further tests should be applied:

1. Is the proposed significant in terms of its scale (magnitude, degree etc.), in relation to the original approval?
2. Would the proposed change result in a detrimental impact either visually or in terms of amenity?
3. Would the interests of any third party or body who participated in or were informed of the original decision be disadvantaged in any way?

Background and Amendments to Original NMA Submission

The site and adjoining sites are subject to extensive planning history. This application relates to planning application reference 21/01560/FUL allowed on appeal, reference APP/P1560/W/22/3297669. As originally submitted, this NMA application sought a non-material amendment for 4 elements, as summarised below:

1. Plots 1 and 2 to be handed (House Type 8)
2. Plots 3, 4 and 5 to be amended to square bays (House Type 7)
3. Removal of 5 new trees to be planted along Michael Wright Way and addition of visitor spaces within the site (altering the approved landscaping)
4. Installation of vehicular and pedestrian gates to the entrance of the development site from Michael Wright Way



	Trees removed from verge north of the site due to an electricity easement which stipulates no infrastructure to pass beneath
	Vehicular gates added
	Plots 1 and 2 handed (House Type 8)
	Visitor parking added
	Bay amended to square bay (Plots 3, 4 and 5 = House Type 7)

However, proposed amendments 3 and 4 could not be considered non-material for the following reasons:

Point 3 – Removal of Tree Planting

Within the appeal decision (application ref: 21/01560/FUL, appeal ref: APP/P1560/W/22/3297669), the Inspector concludes at Paragraph 7 that,

“The layout of the appeal proposal would retain the verdant boundaries of the site and provide a landscaped buffer to the Heckfords Road frontage comparable in depth to that found directly opposite at Newman Fields. As such the appeal proposal would suitably accord with the character of the approach on Heckfords Road into this part of Great Bentley, including the Conservation Area to the south. Furthermore, the low density of the proposed housing would ensure an appropriate grain of development at this location and would respectfully integrate the appeal proposal with the density and character of adjacent housing development, notably that to the south at Moors Close but also the larger plots at the edge of Admirals Green to the east and Newman Fields to the west. Consequently, the appeal proposal would not represent harmful urban sprawl. The proposed design and landscaping means that the appeal development would be of an appropriate standard for a ‘gateway’ site into the village. Further detailed measures to ensure the development maintains a softer, spacious appearance could be secured through various conditions as necessary.”

Paragraph 24 goes on to say that,

“To ensure a satisfactory appearance and assimilation into its context, conditions (4), (17), (24) and (27) securing details of hard landscaping, a landscaping and open space management plan, details of external materials and implementation of soft landscaping are all necessary.”

A scheme of hard and soft landscaping, and boundary treatments for the development were secured via Condition 4 of the appeal decision. The details were approved under discharge of condition application reference 23/00882/DISCON. Therefore, a new DISCON application is required to deal with the proposed amendments to the landscaping scheme, at which time the LPA will consult with the Council’s Tree and Landscaping Officer.

Having regard to the assessment of the development and character of the area undertaken by the Inspector, officers have strong concerns that the loss of the 5 new trees will be detrimental to the quality of the development, the “verdant” character of the locality and “standard for a ‘gateway’ site into the village”. Any new DISCON application for the proposed amendment must be accompanied by additional information and justification as to precisely why these trees, or a reduced number of trees, cannot be planted, including consideration of tree planting in a different position.

The developer has been advised of the above.

Point 4 – Installation of Vehicular and Pedestrian Gates to Access

Within the appeal decision (application ref: 21/01560/FUL, appeal ref: APP/P1560/W/22/3297669), the Inspector concludes at Paragraph 19 that, “Even allowing for the sinuous nature of Michael Wright Way, the proposed point of access for the cul-de-sac would be visible and safe.” Paragraph 25 goes on to say, “Various conditions (5), (6), (7), (8), (9), (10), (11), (12), (13) and (15) are all necessary to ensure satisfactory vehicular access arrangements and that there would no harm to highway safety on Michael Way Wright or Heckfords Road.’

The installation of vehicular and pedestrian access gates in the highway cannot be considered as an NMA. Condition 4 of the appeal decision secured details of the boundary treatments for the development. Officers are content that the proposed access gates can be considered as a ‘boundary treatment’ covered by Condition 4 of 21/01560/FUL and can therefore be submitted alongside the new DISCON application mentioned above to re-discharge Condition 4.

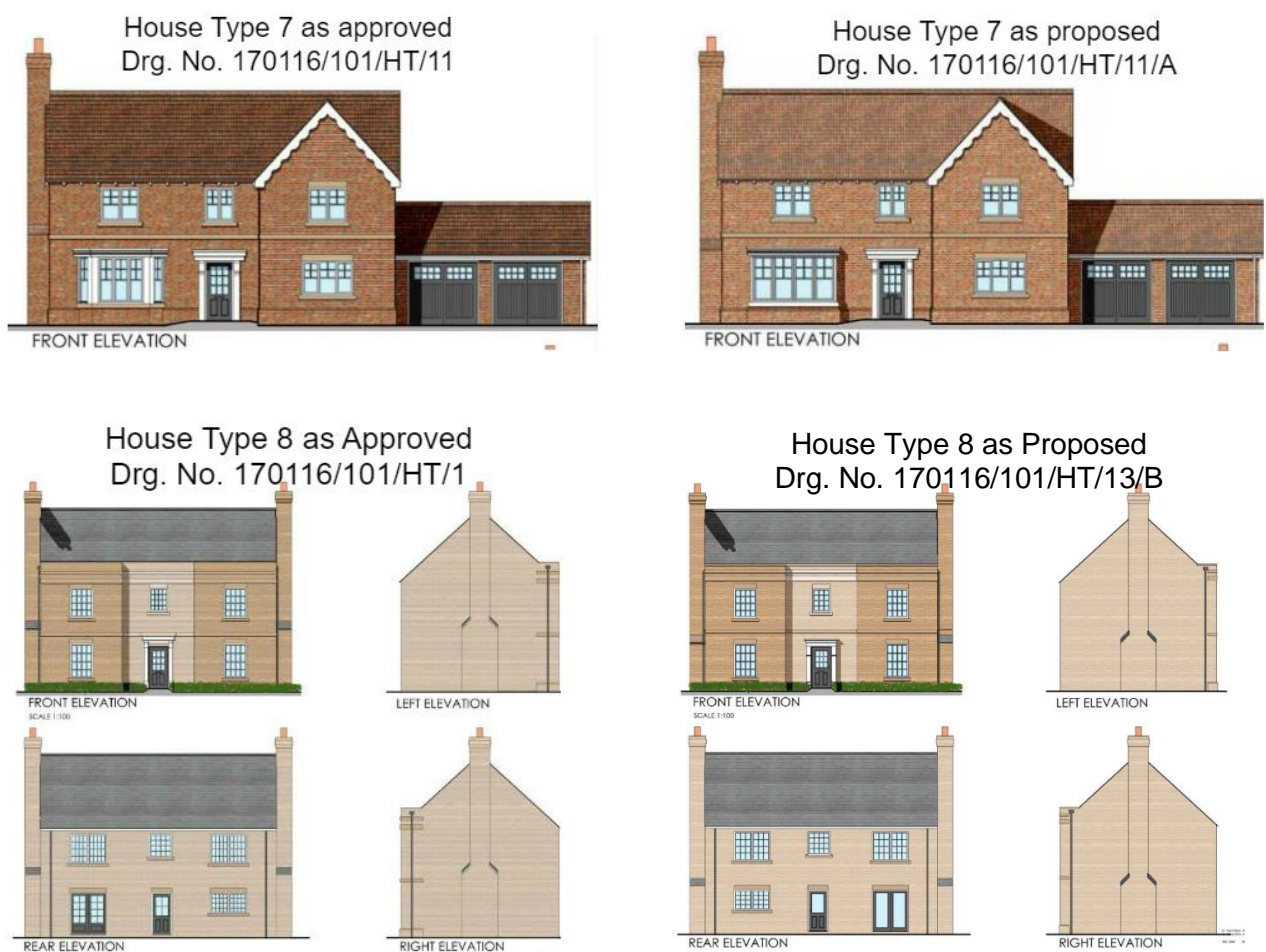
However, considering the conclusions of the Inspector regarding the “*sinuous nature of Michael Wright Way*” and necessity of conditions “*to ensure satisfactory vehicular access arrangements*”, and to ensure that “*there would no harm to highway safety on Michael Way Wright or Heckfords Road*”, consultation with ECC Highways will be fundamental to the acceptability of the gates.

The developer has been advised of the above.

Proposed Amendments

Having regard to the above, the developer has agreed to amend the application to include points 1 and 2 only. The application has been amended and the application description agreed as:

Non-Material Amendment to application reference 21/01560/FUL (allowed on appeal) – to allow for Plots 1 and 2 to be handed (House Type 8) and Plots 3, 4 and 5 to be amended to square bays (House Type 7).



The above plan extracts demonstrate that the impact of the proposed changes will be minimal and will impact the internal street scene of the development only and will not materially alter the overall appearance of the dwellings or development. These changes comply with the tests within Section 96A of the Town and Country Planning Act and are hereby approved as a non-material amendment to 21/01560/FUL (allowed on Appeal Reference APP/P1560/W/22/3297669).

7. Recommendation

Approval - Non-Material Amendment

8. Conditions

1. COMPLIANCE: APPROVED PLANS AND DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the following approved drawings / documents, 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 be subsequently approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard:

24/00938/NMA Approved drawings:

- 170116/101/HT/11/A House Type 07 Elevations Plots 3, 4 and 5
- 170116/101/HT/12/B House Type 08 Floor Plan (Handed Version) Plots 1 and 2
- 170116/101/HT/13/B House Type 08 Elevations (Handed Version) Plots 1 and 2

Superseding the following drawings attached to 21/01560/FUL:

- 170116/101/HT/11

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

NOTE/S FOR CONDITION:

Approved drawing numbers 170116/101/HT/12/B and 170116/101/HT/13/B are additional plans to those approved under 21/01560/FUL and relate to Plots 1 and 2 only. Plot 6 is also House Type 08 and remains as approved under drawing numbers 170116/101/HT/13 Elevations and 170116/101/HT/12 Floor Plans.

9. Informatives

Non-material Amendment Informative

You are advised that this decision is for minor amendments only and should be read in conjunction with the decision notice for application 21/01560/FUL (allowed on Appeal Reference APP/P1560/W/22/3297669) which will contain a number of conditions and informatives that still apply. Any original conditions that refer to previously approved plans should be read in conjunction with the corresponding updated plans and information forming part of this, and any other Non-material Amendment Application or associated Discharge of Condition Application.

DISCON Informative

A scheme of hard and soft landscaping, and boundary treatments for the development were secured via Condition 4 of the appeal decision. The details were approved under discharge of condition application reference 23/00882/DISCON. Therefore, a new DISCON application is required to deal with the proposed amendments to the landscaping scheme and access gates.

10. Notification of Decision

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