

DELEGATED DECISION OFFICER REPORT

AUTHORISATION		INITIALS	DATE
Planning Officer recommendation:		OA	30.01.2025
EIA Development - Notify Planning Casework Unit of Decision:	YES/ NO	OA	30.01.2025
Team Leader authorisation / sign off:		ML	31/01/2025
Assistant Planner final checks and despatch:		ER	31/01/2025

Application: 24/01618/VOC **Town / Parish:** Great Bromley Parish Council

Applicant: Colchester Development 2 Limited

Address: Land at Little Paddocks Frating Road Great Bromley

Development: Application under Section 73 of the Town and Country Planning Act for Variation of Condition 9 (Boundary Planting) of application 21/01679/VOC to ensure highways compliance.

1. Town / Parish Council

Great Bromley Parish Council Great Bromley Parish Council had no objection to the application.

2. Consultation Responses

Tree & Landscape Officer
07.11.2024

The information provided by the applicant shows changes to the soft landscaping to the end of the car park serving the village shop. This is required by the highway authority for safety reasons; namely the removal of vegetation from highway land that forms part of a visibility splay for a busy road junction.

Elsewhere on the site, the changes made to the soft landscaping scheme in respect of species and planting density have been made to reflect the current situation on the ground. The plant species and spacings accurately reflect the level of planting that has been carried out and is sufficient to satisfactorily soften, screen and enhance the appearance of the development

In effect the proposed variation of condition application facilitates the retention of the existing soft landscaping that is acceptable in appearance and function.

The changes will not have an adverse impact on the character or appearance of the development and the selection of plant species is more in keeping with a small residential enclave than the species included in the original planting scheme.

ECC Highways Dept
12.12.2024

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and condition:

1. The proposed new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

The above condition is to ensure that the proposal conforms to the relevant policies contained within the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance and National Planning Policy Framework.

Informative:

i) All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details must be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org

ii) The above condition will also apply to the proposed hedging (Hedge 1.) within Little Paddocks to ensure that the future outward growth of the planting does not encroach upon the carriageway or interfere with the visibility splays for the private driveways and retained free of obstruction above 600mm at all times.

iii) The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

3. Planning History

00/00192/FUL	Renewal of planning permissions TEN/97/0111 and 99/01047/FUL relating to use of barn and garden for display of garden ornaments etc.	Approved	23.03.2000
00/01512/FUL	Conversion of existing barn to one residence with garage	Refused	09.11.2000
01/01290/FUL	Use of barn and garden for display of garden ornaments etc. (Variation to Condition 1 imposed upon planning permission 00/00192/FUL relating to use by specific applicant only)	Approved	13.09.2001
01/01716/FUL	First floor extension and external treatment to existing	Approved	12.11.2001
02/00312/FUL	Change of use of display area to tea room	Refused	09.05.2002

02/01438/FUL	Occupation of caravan during building alterations.	Approved	26.09.2002
92/01165/FUL	Proposed granny annexe - renewal of consent TEN/1128/87	Withdrawn	01.03.1993
96/01436/FUL	Change of use only from private garden and frontage to barn for the display of garden statues, fountains and ornaments	Refused	07.01.1997
97/00111/FUL	Change of use for barn and part garden for display of garden ornaments, etc.	Approved	11.03.1997
98/00397/FUL	('The Paddocks', Harwich Road, Great Bromley) Change of use to convert an area of agricultural land to private garden	Approved	01.05.1998
99/01047/FUL	Use of part of garden as additional display area for display of garden ornaments etc.	Approved	26.08.1999
07/01478/FUL	Erection of 3 no. holiday caravans.	Refused	14.02.2008
08/00901/FUL	Erection of three holiday chalets.	Approved	13.10.2008
11/01207/FUL	Three holiday chalets. (Extension of time on previously approved 08/00901/FUL).	Approved	11.01.2012
13/00841/DISCON	Discharge of Conditions of Planning Permission 11/01207/FUL - 03 - Materials, 07 - Car Park and 08 - Horse Access Details.	Approved	25.09.2013
16/01040/OUT	Outline planning application for proposed 6 No. detached dwellings and garages, and the change of use of the existing barn into a village shop with associated parking for visitors.	Approved	06.01.2017
18/00623/DETAIL	Reserved matters planning application for proposed 6 No. detached dwellings and garages, and the change of use of the existing barn into a village shop with associated parking for visitors.	Approved	05.12.2018
18/01264/OUT	Variation of condition 05 (bus stop provision) and removal of condition 06 (footpath) on planning consent 16/01040/OUT.	Approved	23.10.2018
19/00324/FUL	Proposed replacement detached dwelling and detached double garage.	Approved	13.05.2019
20/00671/FUL	Proposal for one detached dwelling and garage (revisions to plot 6 approved under planning reference 18/00623/DETAIL).	Approved	13.07.2020

20/00859/FUL	Proposed 3no. dwellings (replacements: Plots 1, 2 and 7), internal road and turning head; shop with visitor car parking and new access from Harwich Road; associated landscaping and structures.	Approved	03.12.2020
21/01679/VOC	Vary conditions 2, 5, 11 and 15 of 20/00859/FUL by way of the rewording of the timescales of conditions 2 and 11 and the substitution of drawing number 058/2019/SK250920 with 058/2019/14/P5 (facilitates relocation of bus stop and associated works) for condition 5 and 15 (approved plans).	Approved	22.12.2021
22/00005/DISCON	Discharge of conditions 2 (Tree Protection Detail) and 11 (Soft and hard landscaping) of application 21/01679/VOC.	Approved	14.01.2022
24/00680/VOC	Application under Section 73 of the Town and Country Planning Act for Variation of Conditions 13 (Opening Hours) of application 21/01679/VOC to enable/allow the shop to be open to general public and local community from 6am-11pm, 7 days a week.	Refused	07.08.2024

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>

There are no neighbourhood plans relevant to this location.

6. **Relevant Policies / Government Guidance**

National:

National Planning Policy Framework December 2024 ([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
- SP3 Spatial Strategy for North Essex

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

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP2 Community Facility
- LP1 Housing Supply
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PP1 New Retail Development
- PP2 Retail Hierarchy
- PP13 The Rural Economy
- PP14 Priority Areas for Regeneration
- PPL4 Biodiversity and Geodiversity
- CP1 Sustainable Transport and Accessibility
- CP2 Improving the Transport Network

Supplementary Planning Documents

- Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)
- Tendring Provision of Recreational [Open Space for New Development SPD](#) 2008
- [Essex Design Guide](#)
- Biodiversity Net Gain Supplementary Planning Document June 2023 (DRAFT)

Local Planning Guidance

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

7. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site is Little Paddocks, which previously contained a two-storey detached residential dwelling and associated outbuildings and now is the site of a convenience store. The site is located on the north-eastern corner of Frating Road, within the parish of Great Bromley. The character of the surrounding area is semi-rural. To the north is the Old Courthouse Public House, a car sales business and some sporadic residential development. To the south is a residential development of 7 dwellings which is substantially completed.

The site frontage to Frating Road accommodates a protected Oak Tree and there are mature trees both within the site and adjacent, that play a role in screening and local visual amenity.

The site does not fall within a recognised Settlement Development Boundary, as outlined in the Tendring District Local Plan.

Planning History

The site has a previous VOC application approved in December 2021 (21/01679/VOC). This related solely to conditions 2 (Oak Tree), 5 (Bus Stop Relocation & Footway Provision), 11 (Hard & Soft Landscaping) & 15 (Approved Plans) of Planning Permission 20/00859/FUL. The principle of development for the shop was established through the grant of Reserved Matters application 18/00623/DETAIL.

Proposal

The application was invited by Essex County Council Highways as the planting approved as part of application reference 20/00859/FUL was creating a highways safety concern by way of sightlines and impacting visibility. It was requested that the existing planting around the shop be removed and this has been actioned accordingly. In order to regularise this, an application to vary condition 9 (boundary planting) of application 20/00859/FUL has been submitted. Condition 9 reads:

Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

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

The application is therefore assessed on the basis of the submitted revised landscaping drawings 20.5077.01D, 20.5077.02C & 20.5077.03C below.

The proposed amended condition is as follows:

The boundary planting as approved on drawing nos. 20.5077.01D, 20.5077.02C & 22.5077.03C shall be maintained a minimum of 1 metre back from the highway boundary and any visibility splay.

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

The planting amendments have already been carried out at the time of writing and this application seeks confirmation that these proposed changes are acceptable through a VOC application.

Assessment

Highways

Paragraph 116 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.

Policy CP1 states that new development must be sustainable in terms of transport and accessibility and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport.

Policy CP2 states that new development which contributes to the provision of a safe and efficient transport network will be supported. Planning permission will not be granted if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.

The Local Highway Authority have been consulted on this application and offer no objections subject to the proposed condition stating that the proposed new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay. This is ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety. Therefore, Condition 9 of the previous consent will be amended accordingly to ensure this provision.

Trees & Landscaping

Paragraph 136 of the NPPF states that trees make an important contribution to the character and

quality of urban environments and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined⁵³, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.

Policy SPL 3 of the TDLP states that the design and layout of the development should maintain or enhance important existing site features of landscape, ecological, heritage or amenity value.

Due to the variation in the agreed landscaping, the Council's Tree & Landscape Officer has been consulted on these proposals. The information provided by the applicant shows changes to the soft landscaping to the end of the car park serving the village shop. This is required by the highway authority for safety reasons; namely the removal of vegetation from highway land that forms part of a visibility splay for a busy road junction.

Elsewhere on the site, the changes made to the soft landscaping scheme in respect of species and planting density have been made to reflect the current situation on the ground. The plant species and spacings accurately reflect the level of planting that has been carried out and is sufficient to satisfactorily soften, screen and enhance the appearance of the development

It is considered that the changes will not have an adverse impact on the character or appearance of the development and the selection of plant species is more in keeping with a small residential enclave than the species included in the original planting scheme.

Based upon these considerations it is considered that the proposals accord with both National and Local Policy with regards to Trees & Landscaping.

Habitats, Protected Species and Biodiversity Enhancement

Ecology and Biodiversity

General duty on all authorities

The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.

This development is subject to the general duty outlined above. An informative has been imposed strongly encouraging the applicant to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Therefore the development on balance, with consideration of the impact of the development and baseline situation on site, is considered likely to conserve and enhance biodiversity interests.

Biodiversity net gain

Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. This excludes applications for Listed Building Consent, Advert Consent, Reserved Matters, Prior Approvals, Lawful Development Certificates, householders, self builds, and other types of application which are below the threshold i.e. does not impact a priority habitat and impacts less than 25 sq.m of habitat, or 5m of linear habitats such as

hedgerow). The proposal is for a variation of condition of a consent which was approved prior to the implementation of BNG, the application is not therefore applicable for Biodiversity Net Gain.

Protected Species

In accordance with Natural England's standing advice the proposed development site and surrounding habitat have been assessed for potential impacts on protected species. It is considered that the proposal is unlikely to adversely impact upon protected species or habitats.

In accordance with the overarching duty outlined above, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

Other Considerations

Great Bromley Parish Council have no objection to the proposal.

There have been no other representations.

Conclusion

In the absence of any material harm the proposals are considered to accord with both National and Local Policy and are recommended for approval.

8. Recommendation

Approval - Full

9. Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans;

Approved under application LPA Ref: 21/01679/VOC

- 08-2015-11 PG Site/Block Plan north including application boundary
- 08-2015-104 PC Plots 1 and 2 elevations
- 08-2015-101PC Plot 1 and 2 floorplan
- 08-2015-108PC Plot 7 Elevations
- 08-2015-103PC Plot 7 floorplan
- 08-2015-13PB Garage Plots 1, 2 and 7
- 08-2015-301 PB Shop Floorplan
- 08-2015-302PB Shop Elevations
- 058/2019/14/P5 As submitted

24/01618/VOC

- 20.5077.01D - Proposed Landscaping Drawing 1
- 20.5077.02C - Proposed Landscaping Drawing 2
- 20.5077.03C - Proposed Landscaping Drawing 3

Reason - For the avoidance of doubt and in the interests of proper planning.

2. During the continuation of works and until completion of the development, the protection of mature and protected trees on and adjacent to the site, 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 - To ensure the existing trees are safeguarded during construction and retained in the interests of visual amenity.

3. Prior to occupation of the development, the new shop road junction / access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 120 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason - To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety.

4. Prior to the first occupation of the development the internal layout, bus stop relocation and footway provision shall be provided in accordance with drawing numbers:

08-2015-11 PG - Proposed block plan (north) (As approved under application LPA Ref: 20/00859/FUL)

058/2019/14/P5 - As submitted

Reason - To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.

5. There shall be no discharge of surface water onto the highway.

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.

6. No unbound materials shall be used in the surface treatment throughout.

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

7. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area, loading bay and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

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 is provided.

8. The boundary planting as approved on drawing nos. 20.5077.01D, 20.5077.02C & 22.5077.03C. shall be maintained a minimum of 1 metre back from the highway boundary and any visibility splay.

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

9. Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

10. 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 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: In the interest of visual amenity and the character of the area.

11. The hereby approved retail outlet shall only be open to the general public between the following opening times:

- 7:30am - 10pm (7 days a week)

Reason: In the interests of residential amenity.

12. Condition: Notwithstanding the provision of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 the hereby approved retail outlet shall only be used for retail purposes and not for any other purpose outlined within Class E of the abovementioned regulations.

Reason: In the interests of sustainability and to ensure the Local Planning Authority retains control over the use of the commercial unit in the interests of residential amenity.

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:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO
Has there been a declaration of interest made on this application? Please use the below options as required. No Declarations Of Interest Made / Declaration of Interest Made by...(specify who and why).	YES	NO