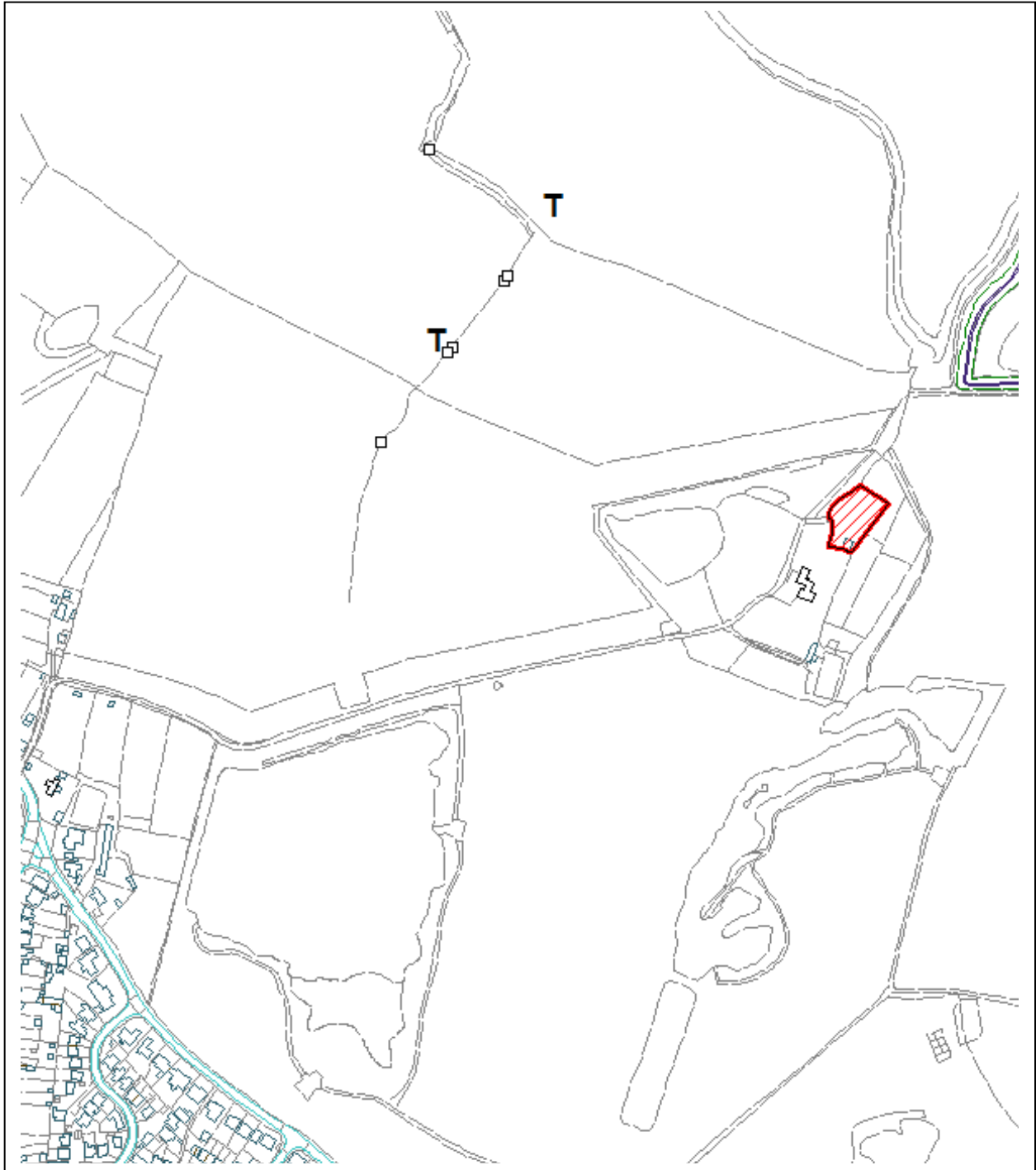


PLANNING COMMITTEE

30 MAY 2018

REPORT OF THE HEAD OF PLANNING

**A.5 PLANNING APPLICATION - 18/00308/OUT - MARSH FARM COTTAGE,  
STONEY LANE, BRIGHTLINGSEA, CO7 0SR**



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<b>Application:</b>	18/00308/OUT	<b>Town / Parish:</b> Brightlingsea Town Council
<b>Applicant:</b>	Mr & Mrs Knights	
<b>Address:</b>	Marsh Farm Cottage Stoney Lane Brightlingsea CO7 0SR	
<b>Development:</b>	Proposed larger replacement dwelling following demolition of existing dwelling.	

## 1. Executive Summary

- 1.1 The application is referred to the Planning Committee by Councillor Jayne Chapman due to the loss of a historic building and the negative impacts of its replacement upon the surrounding area, access lane, negative impact on neighbouring amenity.
- 1.2 The application is seeking outline planning permission for a replacement dwelling with all matters held in reserve.
- 1.3 It is not considered that the proposal will harm the character of the countryside location and setting of a grade II listed building, and would result in a neutral impact to existing neighbouring amenities.

### **Recommendation: Approve**

#### **Conditions:**

1. Time Limit Outline
2. Reserved Matters Condition
3. Approval of Reserved Matters
4. Habitat Survey
5. Pedestrian Visibility Splays
6. Vehicular Turning
7. Parking Standards
8. Inspection of Stoney Lane

## 2. Planning Policy

NPPF National Planning Policy Framework

National Planning Practice Guidance

Tendring District Local Plan 2007

HG7 Residential Densities

HG9 Private Amenity Space

HG12 Extensions to or Replacement of Dwellings Outside Settlement Development Boundaries

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

EN23 Development Within the Proximity of a Listed Building

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

SPL3 Sustainable Design

PPL9 Listed Buildings

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

### **Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. Part 1 was examined in January 2018 with the Inspector's report awaited and whilst its policies cannot yet carry the full weight of adopted policy, they can carry some weight in the determination of planning applications. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

### **3. Relevant Planning History**

95/00498/FUL	(Marsh Farm Cottage, Stoney Lane, Brightlingsea) Alterations and extension of cottage	Approved	13.06.1995
03/01832/FUL	Two storey and single extension	Refused	08.11.2003
04/00370/FUL	Two storey extension	Refused	28.04.2004

04/01197/FUL	1 Storey extension and 1 storey ground floor extension	Approved	10.08.2004
86/00258/FUL	Extn	Approved	07.04.1986
09/60149/HOUEN Q	Reinstate single storey extension that was demolished just before moving in.		26.08.2009
18/00308/OUT	Proposed larger replacement dwelling following demolition of existing dwelling.	Current	

#### 4. Consultations

ECC Highways Dept

This Authority has assessed the highway and transportation impact of the proposal and does not wish to raise an objection subject to the following:

Stoney Lane appears on the Definitive Map of Public Rights of Way as Public Footpath 27, Brightlingsea. As such the legally recognised highway users will be pedestrians with usual accompaniment. All other use is through the exercise of private rights of access.

Whilst in principle this Authority does not object to the proposal as it will not lead to an increase in use of the route, during the construction phase the vehicles associated with the proposal will be classed as exceptional use and due to size and weight are liable to damage the surface of the lane.

Prior to occupation of the development 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 footpath in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Prior to occupation of the development a vehicular turning facility shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

The new property shall be provided with 2 parking spaces and each vehicular parking space shall have minimum dimensions of 2.9

metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Prior to the commencement of any work on the site, a joint inspection of the route to be used by construction vehicles should be carried out by the Applicant and the Highway Authority, including photographic evidence. The route should then be inspected again, after completion of the development and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard and at no cost to the Highway Authority.

Reason: The passage of large and heavy vehicles along this route will create damage to the highway surface leading to trip hazards for highway users. In the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

NOTE: The Area Highway Manager may also wish to secure a bond or commuted sum for special maintenance to cover the damage caused to the existing Public Footpath used as access for vehicles accessing the application site.

NOTE: For the duration of the construction phase the vehicle route to the site should be clearly signed warning drivers to give way to pedestrians using the Footpath.

NOTE: - Public Rights of Way - The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath no27 (Brightlingsea) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.

NOTE - Site Workers - Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site. No vehicles associated with the development shall affect the ease of passage along the PROW.

INF01 Highway Works - All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the

requirements and satisfaction of, the Highway Authority, details to 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](mailto:development.management@essexhighways.org) or by post to:

SMO1 ' Essex Highways, Colchester Highways Depot, 653, The Crescent, Colchester Business Park, Colchester CO49YQ

INF02 Cost of Works - 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.

## 5. Representations

5.1 Brightlingsea Town Council has commented to Object to the scheme on the following grounds:

- Within this property is an existing Shepherds Hut.
- Members are led to believe that Marsh Farm House and Marsh Farm Cottage are Listed Grade 2.
- Parts of the house were not on the original plan (utility room), and members are led to believe that these have been built without planning permission.
- It is one of very few Black Essex Boarded cottages in existence.
- Building work has already started on the proposed Cartlodge.
- ECC have already noted the access, and we wish to reinforce their comments that heavy lorries will have difficulty using the access road - even the refuse lorries no longer use this road.
- The utility room that has already been built is right on the border of the house next door, and the plan seems to encroach on a public foot path.
- It will be a modern building out of character with the surrounding area.

5.2 Public Representation - Eight letters have been received objecting to the application proposal on the following grounds:

- This property is found on maps held at Brightlingsea Museum that date back to 1880.
- The property which includes the original shepherds hut should not be demolished, but preserved.
- It is believed that this cottage is grade 2 listed as it sits within (land locked) by Marsh Farm House, which is grade 2 listed.
- Bats nest here along with migrating swifts, woodpeckers and other species.

- The access to this property is over shared land. The infrastructure of the access is not capable of withstanding large builders lorries.
- There is no turning circle therefore bin lorries are not able to use this lane.
- Disturbance due to increased in traffic using the lane
- Additional construction traffic and consequently additional residents traffic may cause subsidence and damage to our fencing, trees and hedges, and the wildlife.
- Construction traffic exiting Stoney Lane onto Red Barn Road is a hazardous manoeuvre at a dangerous junction.
- Stoney Lane is a public footpath used walkers, including families and children.
- Stoney Lane too narrow and has tight corners for construction vehicles
- Mash Farm House is listed therefore new build will be out of context.
- Current cottage will come under the listing of the adjoining house
- The proposed development is out of character and too large and will have a negative impact on the beautiful surroundings, environment and wildlife.
- Stoney Lane is too narrow for large construction vehicles.
- Development would be harmful to local wildlife

## 6. **Assessment**

The main planning considerations are:

- Site Context
- Proposed Development
- Principle of Development
- Impacts of the Proposed Development
- Residential Amenity
- Highway Safety

### Site Context

- 6.1 The application relates to Marsh Cottage, a two storey detached dwellinghouse located at the end of Stoney Lane, a single track unmade lane proceeding east from Red Barn Road, Brightlingsea. Marsh Farm House, a grade II listed house is located to the south of the application s. There are no other dwellings along Stoney Lane. The application dwelling is not listed.
- 6.2 The site extends to 0.14 hectares (0.35 acres) outside the settlement boundary for Brightlingsea, and comprises the main dwelling and wooden 'cart lodge'. The main dwelling is part single/ part two storey in height, wooden clad with a balcony over the single storey

section facing east towards the Brightlingsea Reach. Environment Agency records confirm the site is located within of Flood Zone 1.

- 6.3 The wider area is open countryside and river estuary, and the immediate vicinity of the site characterised by sparse woodland pasture.

#### Proposal Development

- 6.4 The application proposal is seeking outline planning permission for the demolition of the existing dwelling and 'cart lodge' and for its replacement with a larger dwelling. All matters reserved except for access.

#### PLANNING ASSESSMENT

##### The Principle of Development and Conformity to Policy

- 6.5 The application site is located outside of the Settlement Development Boundary of Brightlingsea as defined within the saved policy for Tendring District Local Plan 2007 and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). Saved Policy QL1 of the Tendring District Local Plan (2007) seeks to direct development towards larger urban settlements defined within the Local Plan. Outside Development Boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.
- 6.6 Saved Policy HG12 (Extensions to or Replacement of Dwellings outside Settlement Development Boundaries) states that proposals for the replacement of an existing dwelling outside the defined development boundaries of settlements will be permitted provided the replacement satisfies the general design criteria set out in Policies QL9 and QL10, and, furthermore, that such development:
- i. is of a size, scale, and height in keeping with the character of the locality and in terms of design and materials would make a positive visual contribution to its setting;
  - ii. is well related and in proportion to the original dwelling;
  - iii. it is not visually intrusive on a skyline or in the open character of the surrounding countryside;
  - iv. it retains sufficient space around the dwelling to protect its setting, that of any associated small group of rural housing, and the amenity and character of the countryside;
  - v. would not represent over-development of the site;
  - vi. would not be detrimental to highway safety;
  - vii. would not adversely affect adjoining properties or main habitable rooms in terms of privacy, amenities and aspect;
  - viii. would not replace an existing permanent dwelling which is capable of reasonable improvement and extension and which makes a positive contribution to local character;
  - ix. would not be a replacement for a mobile home, dwelling already demolished or abandoned, or a building not in lawful use as a dwelling house; and
  - x. would not exacerbate any existing access, drainage or other problems associated with the site.
- 6.7 The application is made in outline with all matters held in reserve. Other than indicative scheme showing a dwelling larger than the current dwelling and an adjacent garage, no further information has been provided. Therefore, it is not possible to test the development proposal against all criteria within policy HG12 with respect to the design and appearance



of a future scheme and the specific impacts of the future development upon the character and appearance of the area, including the setting of a grade II listed building.

- 6.8 Saved policy HG12 makes clear that a replacement dwelling within the countryside would be permitted provided design criteria are met. Whilst specific details of the appearance of the replacement dwelling are unknown, other aspects of the scheme design such as the scale, layout and siting can be assessed.
- 6.9 The application proposes a single dwelling to replace the existing dwelling. It is considered that a future scheme proposing a modest enlargement, compared to size of the existing dwelling might be permitted provided it is proportionate.
- 6.10 It is not considered that the proposed development would exacerbate highway safety, drainage or other infrastructure needs. However, there would be an increase in traffic during the construction of the proposed dwelling. Stoney Lane is a Public Right of Way and is therefore protected by the Highways Act 1980. In the interest of maintaining free and unobstructed access at all times and to ensure the continued safe passage of the public on the definitive right of way, the County Highway Authority has requested the imposition of appropriate condition to require the inspection of Stoney Lane before and after completion and that any damage resulting for the development are remedied.
- 6.11 Point (viii) of the policy requires that consideration is given as to whether the existing permanent dwelling is capable of reasonable improvement and extension and whether it makes a positive contribution to local character. The existing dwelling has character and makes a positive contributes its surroundings. However, the existing building is not listed neither falls within a conservation area. There are no statutory protections preventing the demolition of the existing dwelling subject to prior notification.
- 6.12 It is considered therefore that the application proposal is acceptable in principle.

#### Impacts of the Proposed Development

- 6.13 The application proposal involves the demolition of the existing dwelling and the erection of a replacement detached dwelling. The proposed dwelling would occupy a similar location context in terms of scale, size and character and appearance, and relationship to Marsh Farm House, very little would change.
- 6.14 Policy QL1 of the Tendring Local Plan (2007) establishes principles of sustainable patterns of development and encourages development towards larger urban areas, and limited development within smaller Settlement Development Boundaries.
- 6.15 The Spatial Strategy defines the countryside as all those parts of the Plan area not within the Settlement Development Boundary as such the proposed development would be located within the countryside and subject to relevant policies.
- 6.16 The application proposal is submitted in outline with all matters reserved and therefore detailed plans do not form part of the determination of this application. Notwithstanding the form of the application submission, it is considered that the development would constitute an appropriate form of development within the countryside that would not detract from the character and appearance of the rural location.
- 6.17 The proposed dwelling would be sited in its current location and thereby retain the existing relationship with Marsh Farm House and have very little wider impact on the character of the surrounding area. The proposed replacement development would not therefore be out of keeping within its surroundings.

- 6.18 Saved policy QL9 works together with Policy EN1 in seeking to protect the landscape quality within the district, and aims to resist development that would harm the distinctive landscape character and quality. These policy aims are also reflected in policy SPL3 of the emerging district local plan. It is considered that in principle a replacement dwelling sited as proposed within the current location would not be harmful to the local landscape character or be out of keeping. It is considered that the proposed development would comply with policy QL9 of the Tendring District Local Plan (2007) and policy SPL3 of the Tendring District Local Plan 2013 – 2030 and Beyond (Publication Draft) (July 2017).
- 6.19 Saved policy QL10 seeks to ensure the functional needs of development can be met. There is no public footpath to the site, the only safe mode of transport would be via motorised vehicle. However, the current dwelling is already reliant on the use of motorised vehicles in order to access local services and facilities, and the proposed development would not exacerbate need. Submitted details have shown an indicative scheme. However, it is considered that the site would be sufficient to accommodate a single detached dwelling that could meet the requirements of the policy with regard to adequate daylight, outlook and privacy, and other provisions such as amenity space, waste storage and parking needs. The site is already served by public utility services.
- 6.20 Saved policy EN23 seeks to resist development within proximity of a listed building where such development would adversely affect the setting. The principle of a replacement dwelling is accepted subject to criteria set out within saved policy HG12. It is further accepted that a modest increase in the size of dwelling, given the scale of the plot and separation from the Marsh Farm House could be acceptable.

#### Neighbouring amenity

- 6.21 Other than a change in outlook it is not considered that there would be a significant impact upon neighbours living nearby. Therefore, having regard to the size and general siting of the proposed development, it is considered that there will be a very limited impact upon the neighbouring amenity and the proposal would not result in significant harm in this respect.

#### Highway Considerations

- 6.22 The County Highway Authority raises no objection to the proposal subject to appropriate conditions requiring pedestrian visibility splays and vehicular turning are on site to be surfaced and maintain free of obstruction. The highways authority notes also that Stoney Lane appears on the Definitive Map as Public Footpath 27, and further that construction traffic classed as exceptional use are liable to damage the surface of the lane.

#### Conclusion

- 6.23 The proposed development would represent an acceptable form of development that would not harm the character and appearance of the countryside location nor the setting of a heritage asset.
- 6.24 For the reasons set out above, the recommendation is that planning permission be Approve.

#### Background Papers

None