

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	14/06/18
Planning Development Manager authorisation:	AN	18/6/18
Admin checks / despatch completed	AP BB	19/6/18 19/06/18

Application: 18/00179/FUL **Town / Parish:** Frinton & Walton Town Council

Applicant: Mr Stephen Sibley - Martello Land Properties Ltd

Address: Land adjacent 24 Mill Lane Walton On The Naze

Development: New four bedroom dwelling.

1. Town / Parish Council

Frinton & Walton Town Council

REFUSAL – concern was raised in regard to overlooking of neighbouring properties and therefore privacy. It was considered that the proposal is too great a mass for the site.

2. Consultation Responses

Environment Agency

We have inspected the application, as submitted, and have no objection because the site is currently defended.

Our maps show the site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for a new dwelling, which is classified as a 'more vulnerable' development.

Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment. The requirement to apply the Sequential Test is set out in Paragraph 101 of the National Planning Policy Framework. The Exception Test is set out in Paragraph 102. These tests are your responsibility and should be completed before the application is determined.

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:

Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by the site maximum in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the 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 access and those in the existing public highway 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.

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

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

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 to ensure accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Note: With reference to the above condition the applicants attention should be drawn to the recent alterations to householder 'permitted development' in so far as there is now the need to provide a permeable solution (SUDS) for the hard standing to reduce the cumulative impact of surface water run-off and overloading of sewers.

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.

Any single garages should have a minimum internal measurement of 7m x 3m

Any double garages should have a minimum internal measurement of 7m x 6m

Any tandem garages should have minimum internal measurements of 12m x 3m

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

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 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.

Building Control and
Access Officer

No comments at this stage.

Tree & Landscape Officer

There are no trees or other significant vegetation on the application site.

The trees situated within the curtilages of adjacent properties are unlikely to be significantly affected by the development proposal.

If planning permission is likely to be granted then a condition should be attached to secure details of the indicative soft landscaping shown on the site layout plan.

3. Planning History

15/01714/FUL	Demolition of existing buildings, re-profiling of ground levels and erection of 216 residential dwellings together with associated access, car parking, landscaping and related works.	Approved	03.11.2016
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4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework

National Planning Practice Guidance

Tendring District Local Plan 2007

EN6 Biodiversity

EN6a Protected Species

HG1 Housing Provision

HG9 Private Amenity Space

HG14 Side Isolation

QL3 Minimising and Managing Flood Risk

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

CP1 Sustainable Transport and Accessibility

LP3 Housing Density and Standards

LP4 Housing Layout

PPL1 Development and Flood Risk

PPL4 Biodiversity and Geodiversity

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

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.

5. Officer Appraisal

Site Description

The application site is land adjacent to the north of 24 Mill Lane, Walton-on-the-Naze, measuring 450 square metres and currently serving as an overgrown area following its previous use as an entrance to the former Martello Caravan park to the west. The sites front boundary is protected by 1m high close boarded fencing, whilst the two side boundaries are protected by 1.8m high close boarded fencing.

The character of the surrounding area is relatively urban, with residential properties to the north and south. To the west, development of the former Martello Caravan Park for 216 residential dwellings and commercial units is currently under construction at the time of the site visit.

The site falls within the Settlement Development Boundary for Walton-on-the-Naze within both the Saved Tendring Local Plan 2007 and the Emerging 2013-2033 Tendring Local Plan Publication Draft. The site also falls within Flood Zone 3.

Proposal

This application seeks planning permission for the construction of a single detached residential dwelling that will have 2.5 storeys and be served by four bedrooms.

The initial plans requested a larger dwelling that would serve three bedrooms, however following Officer concerns due to the design and impact to neighbouring properties, amended plans were submitted.

Appraisal

1. Principle of Development

The site is situated within the defined settlement limits of Walton-on-the-Naze as defined by both the adopted Tendring District Local Plan (2007) and emerging Publication Draft (2017) and therefore the principle of residential development in this location is acceptable subject to the detailed considerations as set out below.

2. Design, Appearance and Layout

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The proposed dwelling is to be 2.5 storeys, detached and located to the north of 24 Mill Lane, and to the south of 25 Mill Lane, with the access via Mill Lane to the east. The site is highly prominent across Mill Lane and whilst the addition of a single dwelling will result in additional built form in place of an area of existing grass land, this will be in-keeping with the character to the north and south. Further, the plot is narrow in comparison to adjacent plots, however there are examples of more narrow plots further to the south, whilst the dwelling will help to maintain the existing strong and linear building line, and therefore on balance this is considered acceptable.

In terms of the design of the dwelling itself, initial plans were considered to be too large for the plot size, appearing cramped in the street scene and too bulky. However, amended plans have since been supplied. It is considered that these plans have addressed initial concerns, ensuring there is sufficient separation distance to neighbouring properties and whilst the design is 2.5 storeys, the overall height is similar to 25 Mill Lane to the north and 23 Mill Lane to the south. Further the design is of good quality, incorporating key features to break up the bulk of the proposal, including a front balcony, side dormer, chimney, brick plinth and good use of traditional materials.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of three bedrooms or more should be a minimum of 100 square metres. The submitted plans show that this will comfortably be achieved.

Therefore, on balance, it is considered that whilst there is a degree of visual harm as a result of an additional dwelling in this location, the good design and area character ensure the harm is not significant enough to warrant a reason for refusal.

3. Impact upon Neighbours

The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

There are a number of neighbouring properties within the surrounding area; however those most directly impacted are 24 Mill Lane to the south and 25 Mill Lane to the north. The initial plans submitted showed excessive height and bulk to the side elevations that would appear imposing and result in a significant loss of light to each of these properties. However, amended plans have

significantly reduced the depth of the dwelling, thereby reducing how imposing the dwelling will appear.

The impact in terms of sunlight and daylight lost is not considered to be harmful, as per the Essex Design Guide which states that the obstruction of light and outlook from an existing window is avoided if the extension does not result in the centre of the existing window being within a combined plan and section 45 degree overshadowing zone. Due to separation distances of approximately 2 metres to each neighbouring property this test is passed, whilst it is also acknowledged that the window most impacted upon to the south facing neighbour is separated by a shed.

Furthermore, the dwelling has been designed to reduce overlooking. The first and second floor side elevation windows do not serve main habitable rooms and can be conditioned to be obscure glazed. The rear elevation first and second floor windows will result in a degree of overlooking, however no more so than the neighbouring properties currently receive from their other adjoining neighbours, whilst views from the proposed windows are likely to be towards the rear of the neighbouring gardens, areas less likely to be occupied.

Therefore, on balance, it is considered that whilst there is some harm identified to neighbouring amenities as a result of the proposed dwelling, it will not be significant to justify a reason for refusal.

4. Highway Safety

Essex County Council Highways have confirmed that they do not object to the application subject to conditions relating to visibility splays, the use of no unbound materials and no discharge of surface water onto the highway.

Furthermore, Adopted Car Parking Standards state that for a dwelling of two or more bedrooms, provision should be made for a minimum of two parking spaces measuring 5.5m x 2.9m or a garage, if being used as one of the parking space, should have a minimum internal measurement of 7m x 3m. Whilst the proposed garage falls short of the above measurements, there is sufficient space to the front of the dwelling to accommodate the necessary two parking spaces.

5. Landscaping

The Council's Tree and Landscapes Officer has been consulted on the application. Due to a lack of trees or significant vegetation on the site, and that trees situated in the curtilage of adjacent properties are unlikely to be significantly impacted, subject to a condition to secure soft landscaping the proposal is acceptable against this criterion.

6. Biodiversity

Due to the nature of the site vegetation and the surrounding area, Officers considered that a Phase 1 Habitat Survey was required to identify potential ecological constraints and opportunities. Accordingly the applicant has provided a Phase 1 Habitat Survey, which concludes that subject to suitable preliminary mitigation measures in respect of invasive species, reptiles and birds, there are no ecological constraints to the development of the site. Therefore subject to a condition to secure the recommendations as highlighted in sections 6.5, 6.7, 6.8 and 7.1 of the Ecological Appraisal, the proposed development is acceptable.

7. Flood Risk

Paragraph 100 of the NPPF states inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Local Plans should be supported by Strategic Flood Risk Assessment and develop policies to manage flood risk from all sources, taking account of advice from the Environment Agency and other relevant flood risk management bodies, such as lead local flood authorities and internal drainage boards. Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk

to people and property and manage any residual risk, taking account of the impacts of climate change, by:

- applying the Sequential Test;
- if necessary, applying the Exception Test;
- safeguarding land from development that is required for current and future flood management;
- using opportunities offered by new development to reduce the causes and impacts of flooding; and
- where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to facilitate the relocation of development, including housing, to more sustainable locations.

Paragraph 101 of the NPPF further states that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding.

These sentiments are echoed in draft policy PPL1 of the emerging Local Plan, which states that all development proposals will be considered against the National Planning Policy Framework's flood risk 'sequential test' to direct development toward sites at the lowest risk of flooding unless they involve development on land specifically allocated for development in this plan or land within a Priority Area for Regeneration (the application site is not located in such an area). For development proposals on sites within Settlement Development Boundaries, the sequential approach will apply to all land within the Settlement Development Boundary of the settlement in question.

Saved Policy QL3 also supports this approach by stating that 'development should be located to avoid danger to people and property from flood risk now and for the lifetime of the development. For this purpose, development will not be permitted where sites of lesser flood risk are available to meet development need'.

The Environment Agency (EA) acknowledge that the site lies within tidal Flood Zone 3a, which is defined as having a high probability of flooding, whilst stating that the proposal is classified as a more vulnerable development. However, whilst it has not objected because the site is currently defended, it further states that the Council should be satisfied that the sequential test has been passed.

The applicant, within the submitted Flood Risk Assessment, highlight that the site is located within a Priority Area for Regeneration in both the adopted and emerging local plans, and argue that this would mean the sequential approach is not required to be applied.

In this instance, the Council acknowledges further sites with extant planning permission for similar housing development, for example within Walton-on-the-Naze, at 75 Clays Road, (18/00682/FUL - 1 dwelling), 2 North Street, (18/00306/FUL - 1 dwelling) and 21 Saville Street, (17/01625/FUL - 1 dwelling). Further, at land adjacent 28 Ashlyns Road, Frinton-on-Sea (18/00428/FUL - 1 dwelling), Gladwyn House, Kirby Cross (18/00197/OUT - 1 dwelling) and Cherry Trees, Kirby-le-Soken (18/00036/FUL - 1 dwelling).

It is considered that having assessed the information submitted, officers have identified other sites in the surrounding area which could contain the development in a lower flood zone. The Council therefore does not agree that the sequential test requirement has been satisfied. The allocations in the emerging Local Plan, intelligence gathered in updating the SHLAA and knowledge of extant planning permissions indicates that there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding that are therefore considered sequentially preferable to the application site.

It is therefore considered that the proposal has failed the Sequential Test. The proposed residential development is therefore considered to be unacceptable and contrary to the advice contained in the NPPF, policy PLA1 of the emerging Local Plan, and policy QL3 of the 2007 Local Plan.

Other Considerations

Frinton and Walton Town Council objects on the application on the grounds that there will be a loss of privacy to neighbours due to overlooking, and the proposal is too large for the site.

In answer to these points, they have been addressed within the main body of the report above.

Four letters of objection have been received, with the following issues:

1. Impacts to neighbouring amenities;
2. Issues with Japanese Knotweed;
3. Impacts of new drainage;
4. Design is too large and will dominate the plot;
5. Flooding concerns

In answer to this, points 1, 4 and 5 have been addressed within the main body of the report above. With regards to point 2 the submitted Habitat Survey highlights the presence of Japanese Knotweed but states it will not be a constraint to the development, whilst point 3 is a matter for building regulations.

6. Recommendation

Refusal.

7. Reason for Refusal

- 1 Paragraph 100 of the National Planning Policy Framework states inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by (inter alia) applying the Sequential Test.

Paragraph 101 of the NPPF further states that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding, and a sequential approach should be used in areas known to be at risk from any form of flooding.

These sentiments are echoed in draft policy PPL1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017, which states that all development proposals will be considered against the National Planning Policy Framework's flood risk 'sequential test' to direct development toward sites at the lowest risk of flooding unless they involve development on land specifically allocated for development.

Saved Policy QL3 of the Adopted Tendring District Local Plan 2007 also supports this approach by stating that the Council will ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, whilst for all proposed sites within Flood Zones 2 and 3, the sequential test must be applied to demonstrate that there are no reasonably available sites in a lower flood risk area.

The site lies within tidal Flood Zone 3a, which is defined as having a high probability of flooding, is classified as a more vulnerable development and the sequential test therefore must be passed.

In this instance, the Council acknowledges further sites with extant planning permission for similar housing development, for example within Walton-on-the-Naze, at 75 Clays Road, (18/00682/FUL - 1 dwelling), 2 North Street, (18/00306/FUL - 1 dwelling) and 21 Saville

Street, (17/01625/FUL - 1 dwelling). Further, at land adjacent 28 Ashlyns Road, Frinton-on-Sea (18/00428/FUL - 1 dwelling), Gladwyn House, Kirby Cross (18/00197/OUT - 1 dwelling) and Cherry Trees, Kirby-le-Soken (18/00036/FUL - 1 dwelling).

Having assessed the information submitted, officers have identified other sites in the surrounding area which could contain the development in a lower flood risk zone. The Council therefore does not agree that the sequential test requirement has been satisfied. The allocations in the emerging Local Plan, intelligence gathered in updating the SHLAA and knowledge of extant planning permissions indicates that there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding that are therefore considered sequentially preferable to the application site.

It is therefore considered that the proposal has failed the Sequential Test and the benefits of the development do not therefore outweigh the risks of flooding. The proposed residential development is therefore considered to be unacceptable and contrary to the advice contained in the NPPF, policy PPL1 of the emerging Local Plan, and Saved policy QL3 of the 2007 Adopted Local Plan.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.