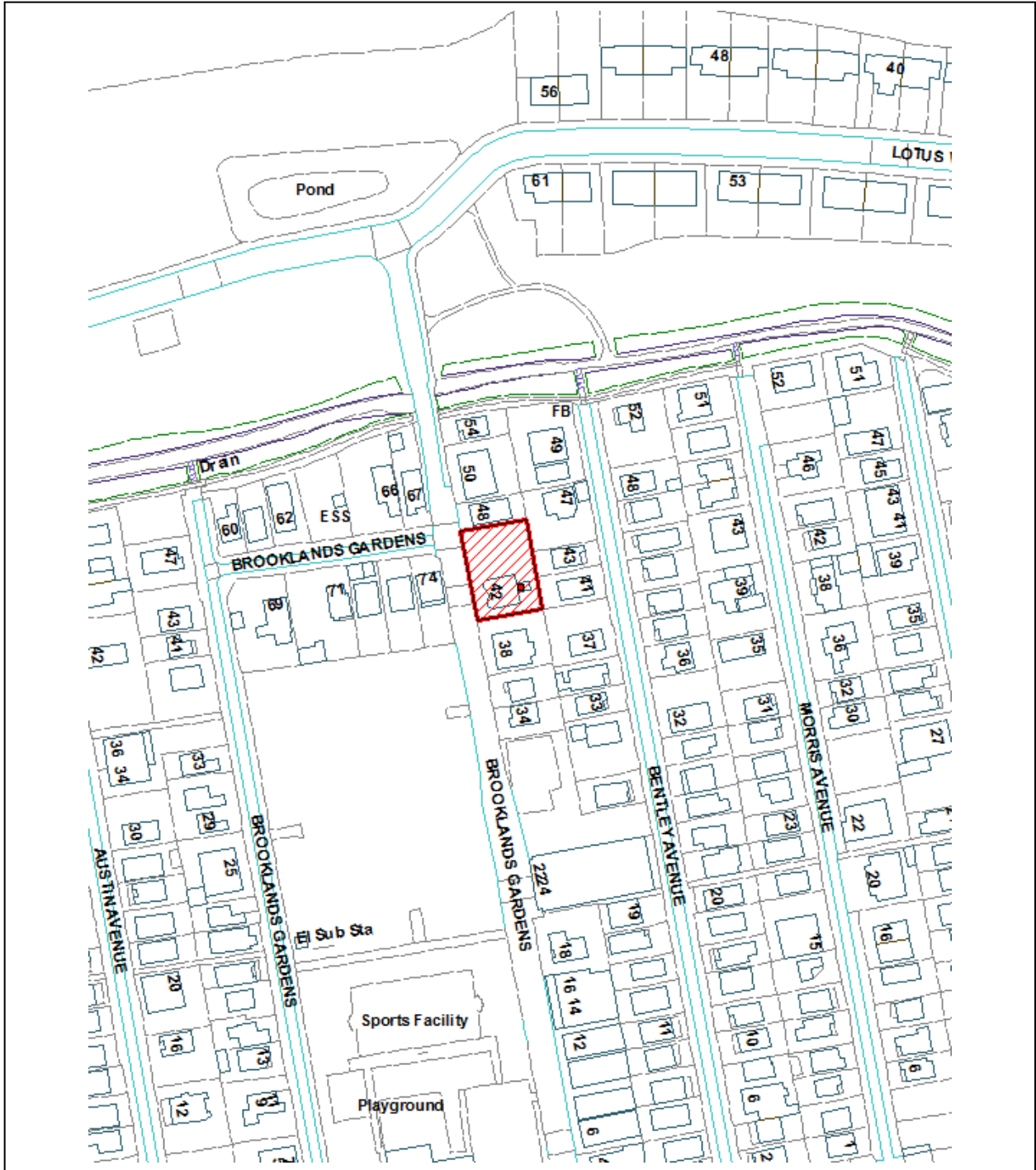


PLANNING COMMITTEE

24 JULY 2018

REPORT OF THE HEAD OF PLANNING

A.4 PLANNING APPLICATION - 17/01845/FUL - 42 - 46 BROOKLANDS GARDENS, JAYWICK, CO15 2JP



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Application:	17/01845/FUL	Town / Parish: Clacton Non Parished
Applicant:	Mr R Culff	
Address:	42 - 46 Brooklands Gardens Jaywick CO15 2JP	
Development:	Erection of 4 storey flat block (containing 7 flats - 2 x one bedroomed and 5 x two-bedroomed units) with under-croft parking.	

1. Executive Summary

- 1.1 This planning application has been referred to Planning Committee as this part of Jaywick is one of the most deprived areas in the country with many of the existing properties originally built as holiday homes. Most properties are substandard by modern day expectations and are within the high risk flood zone. The regeneration of Jaywick is one of the Council's top long-term objectives and the Council has been leading a multi-agency project to explore and deliver improvements in the area to better the quality of life for residents and secure a long-term sustainable future for the community. Part of the strategy for regenerating Jaywick is to actively encourage the redevelopment of the poorest and most vulnerable properties in the area and to introduce a new benchmark for built design that addresses flood risk concerns, improves the quality of accommodation, maximises the enjoyment of Jaywick's assets (particularly the beach) and inspires property owners and developers to redevelop and remodel other parts of the area. Unfortunately the scale of development proposed within this application is considered excessive, upsetting the delicate balance of regeneration of the area versus existing residents' amenity. It is therefore recommended for refusal.
- 1.2 The application proposes a four storey building comprising seven flats with six car and seven cycle parking spaces. There is a communal rear garden area plus two private balconies at first floor level and a large third floor private terrace.
- 1.3 The application site has the proportions of a triple plot and contains the visible remains of one dwelling. The immediate northern neighbour (No. 48) is a very modest bungalow on a single plot, with a raised bungalow (No. 50) on a double plot to its north. The immediate southern neighbour (No. 38) is a raised chalet bungalow on a double plot. Three bungalows fronting Bentley Avenue abut the rear boundary of the site. Two storey dwellings and commercial buildings lie further to the south along Brooklands Gardens, but the prevailing character is raised single storey dwellings on single and double plots. To the south west is an area of public open space with a community centre beyond.
- 1.4 The site lies within flood zone 3a (high risk). The proposal includes only storage and parking on the ground floor bringing about a net improvement in flood safety in relation to neighbouring single storey properties and those likely to have existing on this plot previously. The Environment Agency have no objection to the proposal. The Highway Authority have now removed their objection to the proposal. No neighbour comments have been received.
- 1.5 The detailed design and height closely reflects those approved by Members at 32-37 Brooklands for 13 flats (16/00920/FUL) and 23-27 Brooklands for 15 flats (16/00921/FUL). Those applications represented the first significant proposals for redevelopment in line with the Council's aspirations for the area and are in a prime location overlooking Jaywick beach. Since then numerous three storey redevelopments have been approved within the main residential area of Brooklands. The proposed building at 11m high, and with a

substantial 18.2m wide (15.2m wide at the rear) by 8.3m high combined first and second floor would appear vastly out of scale with neighbouring 1 and 1.5 storey high development. The 8.3m high bulk is only 1.3m from the shared boundary with No.s 48 and 38 Brookland Gardens, and only around 4m from the shared rear boundary with No.s 41, 43 and 47 Bentley Gardens. It is therefore considered that the bulk of development proposed is excessive for this constrained site to the serious detriment of visual amenity and the prevailing scale of surrounding development. This is in contrast to the above two approvals where neighbouring dwellings only exist to the rear due to the beach frontage and roads to both sides.

- 1.6 It is accepted that the Essex Design Guide calculations in relation to back to back distances and preservation of daylight to neighbouring properties must be relaxed with the need to actively encourage the redevelopment of Jaywick. However, the continuous two storey bulk of the first and second floors at 8.5m high raises serious concerns on the impact on neighbouring single storey properties due to the very limited separation distances. This substantial increase in height at such close proximity is considered to be very oppressive for neighbouring occupiers both from within their dwellings and gardens resulting in material loss of light and outlook. The proposed building also contains multiple windows and Juliet balconies to all four elevations at first, second and third floor level. Overlooking from the living rooms and kitchen/dining rooms at first and second floor level to all four sides would result in a significant loss of privacy for neighbouring properties. The two first floor balconies are also very close to the boundaries (1.3m) of 48 and 38 Brooklands Gardens resulting in significant loss of privacy and likely noise concerns given their elevated position and very close siting.
- 1.7 The site is currently overgrown with scrubby vegetation but no significant trees that would merit retention. A phase 1/preliminary ecological assessment has not been provided. The vegetation on the site has reasonable potential to support protected species. Furthermore other development sites in the local area recently subject to ecological assessment have found Common Lizard, high numbers of Slow Worm, and Adder. Unfortunately this matter was only raised with the applicant at a very late stage. However, if such survey is submitted at a later date and recommends acceptable mitigation measures where necessary the related reason for refusal would be removed, or not defended at appeal, subject to appropriate conditions.
- 1.8 The regeneration of Jaywick requires a bold approach that seeks to secure a long-term future for the area. However in this case in weighing up the advantages of the development against the disadvantages, your Officers consider that the disadvantages in terms of serious harm to residential amenity and the prevailing pattern of surrounding development; and an unknown impact upon protected species are greater and the application is therefore recommended for refusal.

Recommendation: Refuse

Reason for Refusal:

1. The National Planning Policy Framework (2012) states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Planning decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.

Saved Policy QL9 of the Adopted Tendring District Local Plan (2007) states all new

development should make a positive contribution to the quality of the local environment and protect or enhance local character. Planning permission will only be granted where new development relates well to its site and surroundings particularly in relation to its height, scale, massing, and design. Saved Policy QL11 seeks to ensure that the scale and nature of development is appropriate to the locality. These requirements are also included in Draft Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The proposed building at 11 metres high, and with a substantial 18.2 metre wide (15.2 metre wide at the rear) by 8.3 metre high combined first and second floor would appear vastly out of scale with neighbouring 1 and 1.5 storey high development. The 8.3 metre high bulk is only 1.3 metres from the shared boundary with No.s 48 and 38 Brookland Gardens, and only around 4 metres from the shared rear boundary with No.s 41, 43 and 47 Bentley Gardens. It is therefore considered that the bulk of development proposed is excessive for this constrained site to the serious detriment of visual amenity and the prevailing scale of surrounding development. The proposed development therefore fails to make a positive contribution to the quality of the local environment and protect or enhance local character.

2. Paragraph 17 of the National Planning Policy Framework (2012) states that planning should always seek to secure a high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Saved Policy QL11 of the Adopted Tendring District Local Plan (2007) and Draft Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) states development will only be permitted if it would not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

The immediate northern neighbour (No. 48) is a very modest bungalow on a single plot, with a raised bungalow (No. 50) on a double plot to its north. The immediate southern neighbour (No. 38) is a raised chalet bungalow on a double plot. To the rear are three bungalows fronting Bentley Avenue (No.s 41, 43 and 47). No. 47 is sited on a double plot with its garden area abutting the application site. Numbers 41 and 43 are on single plots with around 4 metre long rear gardens abutting the application site.

The continuous two storey bulk of the first and second floors at 8.5 metres high raises serious concerns on the impact on neighbouring single storey properties due to the very limited separation distances. Separation to the building at 48 Brooklands Gardens is only around 2.1 metres, around 5 metres to 38 Brooklands Gardens, around 8.5 metres (4 metres to their rear boundary) to 41 and 43 Bentley Avenue, and around 10 metres (4 metres to the rear boundary) to 47 Bentley Avenue. This substantial increase in height at such close proximity is considered to be very oppressive for neighbouring occupiers both from within their dwellings and gardens resulting in material loss of light and outlook.

The proposed building contains multiple windows and Juliet balconies to all four elevations at first, second and third floor level. Overlooking from the living rooms and kitchen/dining rooms at first and second floor level to all four sides would result in a significant loss of privacy for neighbouring properties. It is not considered that this could be overcome through obscure glazing as this would create poor living conditions for future occupiers of the flats and would still give a strong perception of overlooking. The two first floor balconies are also very close to the boundaries (1.3 metres) of 48 and 38 Brooklands Gardens resulting in significant loss of privacy and likely noise concerns given their elevated position and very close siting.

The proposal therefore results in an overbearing impact which would be significantly detrimental to residential amenity, contrary to the above policies.

3. The proposal is contrary to Saved Policies EN6 and EN6a of the Adopted Tendring District Local Plan (2007) that state development proposals will not be granted planning

permission unless existing local biodiversity and protected species are protected. A similar approach is taken in draft Policy PLA4 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Paragraph 118 of the National Planning Policy Framework (2012) requires that Local Planning Authorities "conserve and enhance biodiversity", whilst paragraph 109 requires Local Planning Authorities to minimise impacts on biodiversity. Paragraph 99 of Circular 06/2005 states that "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision" it goes on to state "The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances". Paragraph 5.3 of government document 'Planning for Biodiversity and Geological Conservation: A Guide To Good Practice', states that "In the development control process, the onus falls on the applicant to provide enough information to enable the Local Planning Authority to assess the impacts on biodiversity and geological conservation. Planning applications must be supported by adequate information". Standing advice from Natural England recommends that an initial scoping or extended Phase 1 habitat survey should be conducted to assess the site and the results of this used to inform (the need for) subsequent species specific surveys. No such information has been provided with this application. Neither is evidence provided to outweigh the need to protect such species in accordance with the tests outlined in Article 16 of the EC Habitats Directive.

The site is currently overgrown with scrubby vegetation which has reasonable potential to support protected species. Furthermore other development sites in the local area recently subject to ecological assessment have found Common Lizard, high numbers of Slow Worm, and Adder. A Phase 1/preliminary ecological assessment has not been provided. As such, the proposal is in conflict with the afore-mentioned policies, guidance, directive and the Framework.

2. Planning Policy

National Planning Policy Framework (NPPF)

Section 10 of the NPPF sets out the government's policies in respect of meeting the challenge of climate change, flooding and coastal change. Paragraph 94 states "Local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations". Paragraph 103 sets out the approach that Councils should take when considering planning applications for development in areas of flood risk. This requires a 'sequential approach' that seeks to direct development away from high risk flood areas and to only allow a contrary approach in exceptional circumstances where there are overriding reasons. In any event, developments need to be appropriately flood resilient, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning.

Paragraph 187 of the NPPF states "Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area".

The NPPF states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Planning decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness. Planning should always seek to secure a high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Local Plan

Tendring District Local Plan (2007)

QL1: Spatial Strategy

QL2: Promoting Transport Choice

QL3: Minimising and Managing Flood Risk

QL6: Urban Regeneration Areas

QL9: Design of New Development

QL10: Designing New Development to Meet Functional Needs

QL11: Environmental Impacts

HG1: Housing Provision

HG3: Residential Development Within Defined Settlements

HG9: Private Amenity Space

EN6: Biodiversity

EN6a: Protected Species

TR1a: Development Affecting Highways

TR7: Vehicle Parking at New Development

CL15: Residential Development in Jaywick

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

SP1: Presumption in Favour of Sustainable Development

SPL1: Managing Growth

SPL2: Settlement Development Boundaries

SPL3: Sustainable Design

LP1: Housing Supply

LP3: Housing Density and Standards

LP4: Housing Layout

PPL1: Development and Flood Risk

PPL4: Biodiversity and Geodiversity

CP1: Sustainable Transport and Accessibility

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. 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.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. Importantly the Inspector has confirmed that the housing requirement for Tendring of 550 new homes per annum for the period up to 2033 is based upon sound evidence. There are however concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. 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.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years worth of deliverable housing land against their projected housing requirements (plus a 5% or 20% buffer to ensure choice and competition in the market for land). If this is not possible, housing policies are to be considered out of date and the presumption in favour of sustainable development is engaged with applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

The Council can demonstrate, with robust evidence, a five-year supply of deliverable housing sites and this has been confirmed in recent appeal decisions. This is based on a housing requirement of 550 dwellings per annum which has been confirmed as sound by the Inspector for the Local Plan examination. Therefore policies for the supply of housing are not out of date and applications for housing development are to be determined in accordance with the Local Plan.

3. Relevant Planning History

None

4. Consultations

Building Control and Access Officer	The staircase should be lobbied. Agent needs to check that there is adequate access for a fire fighting appliance to attend the site.
Environmental Protection	<p>In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works ask that the following is conditioned</p> <p>Prior to the commencement of any site clearance, demolition or construction works, the applicant (or their contractors) shall submit a full method statement for written approval.</p> <p>Reason to protect the existing amenity at the nearest sensitive premises.</p> <p>Also provide detailed notes in relation to noise, emission and lighting control</p>
Tree & Landscape Officer	There are no trees of any real visual amenity value or any other vegetation on the site that merit retention. There appears to be little opportunity for new soft landscaping as part of the development of the land.
Highway Authority (original comments)	<p>This Authority has assessed the highway and transportation impact of the proposal and would wish to raise an objection to the above application for the following reasons:</p> <p>Current parking standards require all residential properties to provide suitable levels of vehicle parking in order to limit the risk of conflict in the highway. Properties with one bedroom should provide one parking space, and for two or more bedrooms two parking spaces are required; in this case 12 spaces should be provided.</p> <p>This proposal is dramatically short of these numbers which will lead to an increase in vehicles parking in the highway.</p> <p>Brooklands Gardens is a relatively narrow route and as such the additional vehicles being parked in the highway will lead to increased parking and turning, additional conflict with existing residents and a higher risk of collisions.</p> <p>The proposal is therefore contrary to the relevant policies contained within the County Highway Authority's Development Management Policies.</p>
Highway Authority (Amended)	In the time that has passed since the Highway Authority issued their recommendation I have now met with the applicant and have been submitted

comments)

additional information regarding car ownership in the Jaywick area.

Having regard to the additional information and combined with the fact that the applicant is prepared to provide quality cycle parking, electric (e bike) charging facilities and travel packs for all new residents I confirm that on this occasion the Highway Authority would be prepared to review their highway recommendation and exceptionally support Tendring District Council in consideration of a reduced car parking standard at this location.

Essex County Council are in full support of the regeneration of the Jaywick area and are working in partnership with Tendring District Council to achieve this. During my discussions with the applicant it was stressed that when regeneration of an area occurs car ownership trends may ultimately increase and for that reason it was stressed that for future application the Highway Authority would look for full compliance with the Essex Car Parking Standards document

Environment
Agency

We have no objection to this planning application as the site is currently defended and the SMP (Shoreline Management Plan) policy for this area has an aspiration for hold the line. If the SMP policy is not taken forward the development would be unsafe in the future.

The site lies within tidal Flood Zone 3a having a high probability of flooding. The proposal is for the construction of 7 flats over 4 storeys, classified as a 'more vulnerable' development.

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 (FRA). If you are satisfied that the application passes these tests and will be safe for its lifetime, we request the following conditions are appended to any permission granted:

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA): APS Design Associates Ltd, 915 – 42 Brooklands Gardens, Jaywick FRA – Rev 1, 19 October 2017 and the following mitigation measures detailed within the FRA:
1. Finished first floor levels are set no lower than 5.605 metres above Ordnance Datum (AOD). The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing or phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority. Reason: To reduce the risk of flooding to the proposed development and future occupants.

To assist you in making an informed decision about the flood risk affecting this site, the key points to note from the submitted FRA are: Actual Risk
The site is currently protected by flood defences with an effective crest level of 4.95m AOD which is above the present-day 0.5% (1 in 200) annual probability flood level of 4.18m AOD. The site is not at risk of flooding in the present-day 0.5% (1 in 200) annual probability flood event. The defences will continue to offer protection over the lifetime of the development, provided that the hold the line SMP policy is followed and the defences are raised in line with climate change, which is dependent on future funding.

If the SMP policy is not followed then at the end of the development lifetime, the 0.5% (1 in 200) annual probability including an allowance for climate

change flood level of 5.305m AOD, would overtop the existing defences.

Residual Risk

Section 4 and 5 of the FRA explores the residual risk of a breach using the Jaywick 2015 Strategic Flood Risk Assessment (SFRA). The site could experience breach flood depths of up to 2 metre during the 0.5% (1 in 200) annual probability including climate change breach flood event and at 3 metres during the 0.1% (1 in 1000) annual probability including climate change breach flood event (up to the year 2115).

Assuming a velocity of 0.5m/s the flood hazard is danger for all including the emergency services in the 0.5% (1 in 200) annual probability flood event including climate change.

Finished ground floor levels have been proposed at 2m AOD. This is below the 0.5% annual probability breach flood level including climate change of 4m AOD and therefore at risk of flooding by 2m depth in this event. The development has not included any habitable space on the ground floor.

Flood resilience/resistance measures have been proposed up to 5.605m AOD which is 0.3m above the 0.5% (1 in 200) annual probability breach flood level including climate change.

Finished first floor levels have been proposed at 5.605m AOD and therefore there is refuge above the 0.1% (1 in 1000) annual probability breach flood level of 5m AOD.

A Flood Evacuation Plan has been proposed and is necessary to ensure the safety of the development in the absence of safe access with internal flooding in the event of a breach flood.

Shoreline Management Plan

The current defences protect this community against a tidal flood with a 0.5% (1 in 200) annual probability of occurrence. However, the impacts of climate change on sea levels over the development's lifetime will gradually reduce the level of protection afforded if they are not raised within this timeline. Without the raising of the defence, the site could flood should a tide with a 0.5% (1 in 200) annual probability flood event plus climate change occur, which could be contrary to the advisory requirements of Paragraphs 059 and 060 of the National Planning Policy Framework's Planning Practice Guidance. These advise that there should be no internal flooding in 'more vulnerable' developments from a design flood. This could also present challenges to the safety of the users of the buildings and a future reliance on evacuation or emergency response. The South Suffolk and Essex Shoreline Management Plan (SMP) has a policy of 'Hold the Line' until 2105 for Jaywick, so it is possible that the flood defences may be raised in line with climate change to continue to protect against the future 1 in 200 annual probability flood event for the lifetime of the development. The SMP policy is aspirational rather than definitive, so whether the defences are raised or reconstructed in the future will be dependent on the availability of funding. The level of funding that we can allocate towards flood defence improvements is currently evaluated through cost benefit analysis, and any identified shortfalls in scheme funding requirements would require partnership funding contributions from other organisations. When determining the safety of the proposed development, you should take this uncertainty over the future flood defences and level of flood protection into account. This

may require consideration of whether obtaining the funds necessary to enable the defences to be raised in line with climate change is achievable. This would be required to prevent the proposed development being at unacceptable flood risk of internal flooding in the design event.

Essex Police Essex Police wish to offer comment with regard the above planning application in respect of the potential for Designing Out Crime in pursuance of the guidance offered within Sections 58 & 69 of the National Planning Policy Framework (NPPF).

The published documents have been studied and, unfortunately, do not provide sufficient detail to allow an informed decision to be made as to whether the appropriate consideration of Sections 58 & 69 of the National Planning Policy Framework has been achieved. Essex Police is able to support the applicant to achieve appropriate consideration of the requirements and is invited to contact Essex Police via designingoutcrime@essex.pnn.police.uk

5. Representations

5.1 No comments have been received.

6. Assessment

The main planning considerations are:

- Principle of development;
- Jaywick Regeneration Policies;
- Flood Risk;
- Design;
- Highway Safety;
- Residential Amenity;
- Environmental Impacts;
- Overall planning balance.

Context

- 6.1 The site lies within the settlement development boundary for Jaywick in both the saved and draft local plans. The site is also within flood zone 3a (high risk).
- 6.2 The application site has the proportions of a triple plot and contains the visible remains of one dwelling. The immediate northern neighbour (No. 48) is a very modest bungalow on a single plot, with a raised bungalow (No. 50) on a double plot to its north. The immediate southern neighbour (No. 38) is a raised chalet bungalow on a double plot. Three bungalows fronting Bentley Avenue (No.s 41, 43 and 47) abut the rear boundary of the site. Two storey dwellings and commercial buildings lie further to the south along Brooklands Gardens, but the prevailing character is raised single storey dwellings on single and double plots. To the south west is an area of public open space with a community centre beyond.

Principle of development

- 6.3 The site lies within the settlement development boundary for Jaywick which forms part of the 'town' of Clacton (as defined in Policy QL1 of the adopted Local Plan) and the 'strategic urban settlement' of Clacton-on-Sea (as defined in Policy SPL1 of the emerging Local Plan). As the site lies within the settlement development boundary the principle of

residential development is accepted by saved Policy HG3 and draft Policy SPL2, subject to the detail of the proposal being acceptable.

Jaywick Regeneration Policies

- 6.4 The Brooklands, Grasslands and Village areas of Jaywick are defined as an urban regeneration area in Policy QL6 of the adopted Local Plan and a Priority Area for Regeneration in Policy PP14 of the emerging Local Plan. Such areas will be a focus for investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety and accessibility. The policy supports proposals for development that are consistent with achieving these regeneration aims.
- 6.5 This part of Jaywick is one of the most deprived areas in the country with many of the existing properties originally built as holiday homes. Most properties are substandard by modern day expectations and are within the high risk flood zone. The regeneration of Jaywick is one of the Council's top long-term objectives and the Council has been leading a multi-agency project to explore and deliver improvements in the area to better the quality of life for residents and secure a long-term sustainable future for the community. Part of the strategy for regenerating Jaywick is to actively encourage the redevelopment of the poorest and most vulnerable properties in the area and to introduce a new benchmark for built design that addresses flood risk concerns, improves the quality of accommodation, maximises the enjoyment of Jaywick's assets (particularly the beach) and inspires property owners and developers to redevelop and remodel other parts of the area.
- 6.6 Saved Policy CL15 sets out specific requirements for development in Jaywick which are:
- i) Any new residential development should take the form of single dwellings on combined plots, the desirable width and depth of resulting plots to be at least 18 metres and 15 metres respectively. The minimum width and depth of resulting plots to be 15 metres and 15 metres respectively;
 - ii) Only three storey development that excludes habitable rooms on the ground floor will be allowed;
 - iii) Direct road frontage access should be available to each plot;
 - iv) A minimum of 5 metres deep rear yard/amenity area shall be provided;
 - v) a minimum one metre space between side boundaries and any detached, semi-detached or end terraced dwelling, or a minimum distance of 2 metres between the flank walls of any two such dwellings will be required;
 - vi) Any off street car parking should be provided within the ground floor of each dwelling;
 - vii) The front building line to be 2 metres from the highway;
 - viii) Subsequent extensions to new dwellings will not be allowed if they contain living accommodation on the ground floor in the form of habitable rooms;
 - ix) No development will be allowed within four metres of the ditch to the rear of Brooklands and Grasslands to allow for the passage of Maintenance Plant;
 - x) Development along the Brooklands Frontage will need to be set back 2 metres to allow for the expansion of the road and minimum 1.2 metre-wide foot path.
- 6.7 The policy then says the approval of any new dwelling will be subject to a contribution through S106 legal agreement towards the continued wider regeneration of Jaywick.
- 6.8 However, this 2007 policy aimed at strictly controlling development to facilitate a phased programme of redevelopment has failed to bring about any positive changes in the area. Since the NPPF has given Councils more freedom to apply planning policies to better

reflect local circumstances the Council, the Environment Agency and other partners have agreed that lifting some of the planning restrictions and moving towards flexible policies aimed at encouraging developers to provide high-quality, resilient and innovative new homes in the area is a better approach. This approach has seen an increasing number of predominantly three storey redevelopments being approved within Jaywick.

Flood Risk

- 6.9 The site and a large area of this part of Jaywick falls within Flood Zone 3a which is the highest area of risk due to its low-lying position on the coast. The NPPF, as supported by policy QL3 in the adopted Local Plan and policy PPL1 in the emerging Local Plan, requires a 'sequential approach' to the location of new development. 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. There are clearly many locations of lower risk where a block of 7 flats could be located. However, in Jaywick an exceptional approach is justified where new development can assist in the regeneration of the area and help to reduce the risk of flooding to life and property overall.
- 6.10 The NPPF and Local Plan policies refer to the 'Exception Test' which must apply if a development in a higher risk area is being considered having undertaken the sequential test. Paragraph 103 of the NPPF requires such developments to be informed by site-specific flood risk assessment and to demonstrate that:
- Within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
 - Development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.
- 6.11 The application is accompanied by a site-specific flood risk assessment. The Environment Agency confirm that they have no objection as the site is currently defended and the Shoreline Management Plan policy for this area has an aspiration for hold the line. They request a condition securing compliance with the submitted flood risk assessment and that finished floor levels are set no lower than 5.605 metres above Ordnance Datum (AOD).
- 6.12 The finished ground floor level is at 2m AOD which is below the 0.5% annual probability breach flood level and is therefore at risk of flooding by 2m depth in this event. However, the ground floor is used solely for vehicle and bin storage with no habitable accommodation so does not pose any threat to life.
- 6.13 A Flood Evacuation Plan has been proposed and this is necessary to ensure the safety of the development in the absence of safe access with internal flooding in the event of a breach flood.
- 6.14 The proposal is therefore considered to pass the sequential and exception tests and is acceptable in relation to flood risk.

Design

- 6.15 The proposed building fills the plot at ground floor level at just under 21 metres wide, set back 1 metre from the Brooklands Gardens road. At ground floor there are six open garages and a central pedestrian access. The building then steps in 1.3m to both sides at

first floor level, with balconies on the side elevations, providing a first and second floor block measuring 18.2m wide and 8.3m tall. The third floor is then set in from all elevations surrounded by a large roof terrace to the front and both sides reaching a total height of 11m. To the rear the first and second floors sit above ground floor cycle and bin stores stepped in 1.5m from both sides in relation to the front of the building.

- 6.16 The flat roofed design seeks to make full use of the structure for accommodation and the stepped design seeks to reduce the bulk as the height increases. The art deco style design with white render and green detailing is considered appropriate for this seaside location and closely reflects those approved by Members at 32-37 Brooklands for 13 flats (16/00920/FUL) and 23-27 Brooklands for 15 flats (16/00921/FUL).
- 6.17 The submitted front elevation shows a street scene including the two immediate neighbours at No. 48 (to the left) and No. 38 (to the right) but is incorrect. No. 48 in particular is a very modest bungalow whose roof only reaches the eaves line of its other neighbouring bungalow at No.50. It is considered that had this been correctly drawn it would show that this immediate neighbour is only around 0.8m from the boundary (as confirmed on the submitted ground floor plan) not 1.5m as indicated on the street scene drawing and of comparable height to the proposed first floor balcony. The first and second storey floors of the proposed building will therefore be around 5 metres higher than No. 48 with only 2.1m separation therefore appearing completely out of scale with this neighbour. No. 38 to the left is a raised bungalow with accommodation in the roof which appears to be shown around 0.8m closer in the street scene drawing and is shown to be front gabled rather than side gabled. However, the overall height shown for this neighbour appears correct and there would be around 5 metres separation to the first and second floor element of the proposed building.
- 6.18 To the rear are three modest bungalows fronting Bentley Avenue (No.s 41, 43 and 47). No. 47 is sited on a double plot with its garden area abutting the application site. Numbers 41 and 43 are on single plots with around 4m long rear gardens abutting the application site.
- 6.19 The proposed building at 11m high, and with a substantial 18.2m wide (15.2m wide at the rear) by 8.3m high combined first and second floor would appear vastly out of scale with neighbouring 1 and 1.5 storey high development. The 8.3m high bulk is only 1.3m from the shared boundary with No.s 48 and 38 Brookland Gardens, and only around 4m from the shared rear boundary with No.s 41, 43 and 47 Bentley Gardens. It is therefore considered that the bulk of development proposed is excessive for this constrained site to the serious detriment of visual amenity and the prevailing scale of surrounding development.
- 6.20 The approved applications at 32-37 Brooklands for 13 flats (16/00920/FUL) and 23-27 Brooklands for 15 flats (16/00921/FUL) represented the first significant proposals for redevelopment in line with the Council's aspirations for the area and are in a prime location overlooking Jaywick beach. Since then numerous three storey redevelopments have been approved within the main residential area of Brooklands. The current proposal at four stories, and with a substantial bulk at first and second floor level very close to the boundaries, is considered to represent overdevelopment in this location with neighbouring dwellings to all sides. This is in contrast to the above two approvals where neighbouring dwellings only exist to the rear due to the beach frontage and roads to both sides.
- 6.21 The applicant has amended the plans since original submission to reduce the rearward projection of the first and second floors and to set the ground floor in slightly. However these changes are not significant enough to overcome the serious concerns detailed within the reasons for refusal. Officers are very keen to negotiate the scheme to an approval and have confirmed the need to reduce the oppressive impact that the proposal would have on neighbouring dwellings, but also being within a regeneration area any future development that may wish to be provided on surrounding sites.

- 6.22 Saved Policy HG9 relates to provision of private amenity space and requires minimum 5 square metre private balconies to flats above ground floor level; or 25 square metres per flat of communal garden. The third floor flat has a very large private terrace and two flats at first floor level have large private balconies. The remaining flats (3 two-bedroom and 1 one-bedroom) have use of an ample rear garden area comprising around 100 square metres so the provision of amenity space complies with Saved Policy HG9.

Highway Safety

- 6.23 For two one-bedroom flats and five two-bedroom flats 12 off street car parking spaces plus two visitor parking spaces should be provided in accordance with the adopted parking standards. Six undercroft parking spaces are provided plus internal cycle storage for 7 cycles and e-bike charging points.
- 6.24 The Highway Authority have changed their recommendation in light of evidence provided by the applicant which confirms the lower than average level of car ownership in Jaywick. The level of car and cycle parking proposed is therefore acceptable.
- 6.25 The Highway Authority confirm no objection subject to conditions to secure: residential travel packs; provision of cycle and car parking and e-bike charging as shown prior to occupation and retained as such thereafter; and no use of unbound materials. Subject to these conditions the proposal is acceptable in terms of highway safety.

Residential Amenity

- 6.26 The immediate northern neighbour (No. 48) is a very modest bungalow on a single plot, with a raised bungalow (No. 50) on a double plot to its north. The immediate southern neighbour (No. 38) is a raised chalet bungalow on a double plot. To the rear are three bungalows fronting Bentley Avenue (No.s 41, 43 and 47). No. 47 is sited on a double plot with its garden area abutting the application site. Numbers 41 and 43 are on single plots with around 4m long rear gardens abutting the application site.
- 6.27 It is accepted that the Essex Design Guide calculations in relation to back to back distances and preservation of daylight to neighbouring properties must be relaxed with the need to actively encourage the redevelopment of Jaywick, particularly given the existing narrow and short plots and close spacing of dwellings in the area. In terms of loss of light, outlook and privacy the third floor raises few concerns due to it being set back from, and largely screened by, the second floor to the immediate neighbours. However the continuous two storey bulk of the first and second floors at 8.5m high raises serious concerns on the impact on neighbouring single storey properties due to the very limited separation distances. Separation to the building at 48 Brooklands Gardens is only around 2.1m, around 5m to 38 Brooklands Gardens, around 8.5m (4m to their rear boundary) to 41 and 43 Bentley Avenue, and around 10m (4m to the rear boundary) to 47 Bentley Avenue. This substantial increase in height at such close proximity is considered to be very oppressive for neighbouring occupiers both from within their dwellings and gardens resulting in material loss of light and outlook.
- 6.28 The proposed building contains multiple windows and Juliet balconies to all four elevations at first, second and third floor level serving living, kitchen/dining areas and bedrooms, with all bathrooms being internal except at third floor level. Overlooking from the living rooms and kitchen/dining rooms at first and second floor level to all four sides would result in a significant loss of privacy for neighbouring properties. It is not considered that this could be overcome through obscure glazing as this would create poor living conditions for future occupiers of the flats and would still give a strong perception of overlooking. The two first floor balconies are also very close to the boundaries (1.3m) of 48 and 38 Brooklands

Gardens resulting in significant loss of privacy and likely noise concerns given their elevated position and very close siting.

- 6.29 The third floor is set back so would not provide direct views downwards from within the flat. However, there is a terrace to three sides which would allow views down towards neighbouring gardens and dwellings. Given the height of 8.5m it is not considered that overlooking or noise from this large terrace would be significantly harmful to privacy or amenity to justify an objection on these grounds.
- 6.30 TDC Pollution team request a condition requiring submission of a demolition and construction method statement which would minimise disturbance to neighbours during site clearance and construction in terms of noise, dust and lighting.

Environmental Impacts

- 6.31 The site is currently overgrown with scrubby vegetation but no significant trees that would merit retention. A phase 1/preliminary ecological assessment has not been provided. The vegetation on the site has reasonable potential to support reptiles, hedgehogs (a Species of Importance in England) and other protected species. Furthermore other development sites in the local area subject to ecological assessment have found Common Lizard, high numbers of Slow Worm, and Adder.
- 6.32 Unfortunately this matter was only raised with the applicant at a very late stage and a suggestion was made by Officers to defer the application to a later Planning Committee to enable the site to be surveyed. However, if such survey is submitted at a later date and recommends acceptable mitigation measures where necessary the related reason for refusal would be removed, or not defended at appeal, subject to appropriate conditions.

Other considerations

- 6.33 In relation to the comments from Building Control the applicant states: Regarding the staircase needing to be lobbied; this will be covered under building control and can then be adjusted if necessary. Regarding adequate access for a fire fighting appliance; We have been advised by Mr Culff that both properties have been the victim of fires on separate occasions. Mr Culff advised us he was present at one of the fires and three fire engines were in attendance.

Overall planning balance

- 6.34 The regeneration of Jaywick requires a bold approach that seeks to secure a long-term future for the area. However in this case in weighing up the advantages of the development against the disadvantages, your Officers consider that the disadvantages in terms of serious harm to residential amenity and the prevailing pattern of surrounding development; and an unknown impact upon protected species are greater and the application is therefore recommended for refusal.

Background papers

None