



<b>Application:</b>	18/00464/FUL	<b>Town / Parish:</b> St Osyth Parish Council
<b>Applicant:</b>	Mr M Skeels	
<b>Address:</b>	138 Colne Way Point Clear Bay St Osyth	
<b>Development:</b>	Replacement dwelling (following demolition of existing).	

## 1 Executive Summary

- 1.1 **This is a full planning application to build a 2 storey two bedroom dwelling to replace an existing single storey chalet.** The planning application has been referred to Planning Committee as the applicant is an elected Councillor of Tendring District Council.
- 1.2 **At the Planning Committee on 30th May 2018 Members considered the original plans and requested that the application is deferred to enable officers to negotiate a building of reduced height and bulk to improve its appearance within the street scene and to ensure a more sympathetic relationship to neighbouring buildings. Consequently, amended plans have been received which show the second floor being removed and the building reduced to two-storey height. The amended plans ensure that the building would be less prominent in street scene views, would be of comparable height to the property to the west and would lessen the impact upon neighbours in terms of loss of outlook and light. The amended plans are considered to overcome Member's previous concerns. All amendments to the original report are in bold font for clarity.**
- 1.3 The application site is located in Point Clear Bay where the existing properties were predominantly built as holiday homes. Most properties are substandard by modern day expectations and are within the tidal flood zone where the risk of flooding is set to increase with the effects of climate change.
- 1.4 The traditional design approach incorporating a gambrel style roof is considered to represent an appropriate response to the character of the area. Notwithstanding this point the replacement property would be higher and bulkier than the existing property on the plot and those neighbouring the site. However, this is an area where the current standard of residential property places residents at a high risk of flooding particularly if climate change results in rising sea levels as projected by the Environment Agency. By including only storage, utility rooms, kitchen, shower room and parking on the ground floor the development would bring about a net improvement in flood safety.
- 1.5 With this in mind, Officers are advising the Committee to consider whether this approach is justified in order to facilitate a development that could help set the tone for the future regeneration of the area. If the Committee agrees that this approach is acceptable, this development provides an example to other property owners who might consider redevelopment to a more resilient, lower flood risk form of development.
- 1.6 Therefore in the absence of any objections from the Environment Agency and Essex County Council Highways and in weighing up the advantages of the development against the disadvantages, the application is recommended for approval.

**Recommendation: Approve**

**Conditions:**

1. Standard 3 year time limit for commencement.
2. Accordance with approved plans.
3. Garage/parking bay available for use prior to occupation and retained as approved for parking purposes only.
4. Submission of flood evacuation plan.
5. Submission of flood proofing/building flood resilience measures report.
6. Ground floor shall only be used for purposes as shown on plans and retained (parking, storage and wet room/utility room and kitchen).
7. Details of materials/surface finishes.
8. Obscure glazing to side bathroom window and rear bedroom window
9. Removal of permitted development rights (extensions/outbuildings/Roof Additions and windows).

**2 Planning Policy**

NPPF National Planning Policy Framework (2018)  
National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy  
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  
HG1 Housing Provision  
HG9 Private Amenity Space  
HG12 Extensions to or Replacement of Dwellings outside Settlement Development Boundaries  
HG14 Side Isolation  
HG20 Plotland Development  
TR1A Development Affecting Highways  
TR7 Vehicle Parking at New Development

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  
LP2 Housing Choice  
LP3 Housing Density and Standards  
LP4 Housing Layout  
PPL1 Development and Flood Risk

Local Planning Guidance

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

## **Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) 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 48 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. They raise 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 48 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 an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the Council is able to demonstrate a robust five year supply of deliverable housing sites (as confirmed in recent appeal decisions) and housing delivered over the previous three years has been comfortably above 75% of the requirement. There is consequently no need for the Council to consider an exceptional departure from the Local Plan on housing supply grounds and applications for housing development are to be determined in line the plan-led approach.

### 3 Relevant Planning History

16/01985/FUL	Proposed replacement dwelling following demolition of existing.	Refused	16.08.2017
17/01474/FUL	Replacement dwelling (following demolition of existing).	Refused	24.10.2017
18/00464/FUL	Replacement dwelling (following demolition of existing).	Current	

### 4 Consultations

**ECC Highways Dept** Colne Way is a private road and as such this Authority does not wish to make any comments.

**Building Control and Access Officer** No comments at this time.

**Environment Agency** - The site is currently protected by flood defences with a minimum effective crest level of 4.33m AOD which is above the present-day 0.5% (1 in 200) annual probability flood level of 4.3m AOD. Therefore 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.

- At the end of the development lifetime with climate change applied to the design 0.5% annual probability flood event, if the SMP policy is not followed then through overtopping of the current defences the resulting on-site flood level would be 5.38m AOD. The resulting actual risk depth of flooding on the site using the minimum site level of 1.96m AOD would be 3.42m deep, and in the building using the proposed finished floor levels of 2.11m AOD would be 3.27m deep.

We have no objection to this planning application as the site is currently defended and the Essex and South Suffolk Shoreline Management Plan (SMP) policy for this area has an aspiration for "hold the line."

### 5 Representations

5.1 **St Osyth Parish Council - The Parish Council would reaffirm its objections of 24th April 2018, in that the position of the proposed development is still set forward of neighbouring properties, over which it would have a detrimental effect, especially no 139, which due to the height of the proposed development would be in direct view.**

**Additionally, Councillors are concerned that unless the proposed development is moved towards the rear of the plot, it will potentially block the sightline of drivers approaching New Way from Western Promenade.**

## 6 Assessment

6.1 The main planning considerations are:

- Site Context;
- Proposal;
- Principle of Development;
- Design/Visual Impact;
- Private Amenity Space;
- Residential Amenities;
- Flood Risk; and
- Highway Considerations

### Site Context

- 6.2 The application site is located on a prominent corner plot on the western side of the junction between Western Promenade and Colne Way within the Point Clear Bay area. The area comprises of a mixture of private dwellings and holiday chalets of differing age, scale and design.
- 6.3 The application site currently accommodates a small holiday chalet partly brick built with a shallow felted pitched roof. The chalet appears to have been constructed in the 1950's and, due to the presence of a restrictive occupation condition, cannot be occupied in the winter months (November through to April).
- 6.4 The front of the property is laid to grass and there are no formal parking arrangements. To the rear is a small grassed garden area. The boundaries are marked by bushes and low level timber fencing.
- 6.5 The site is located within a Flood Risk Zone 3 but is protected by current sea defences.

### Proposal

- 6.6 This application proposes the replacement of the existing chalet with a **two storey permanent dwelling. The property would comprise of 2 bedrooms with a dining/lounge area at first floor. The ground floor would accommodate a single garage, a shower room and kitchen area.**
- 6.7 **The dwelling would consist of a gambrel style roof with facing brickwork at ground level with the first floor consisting of fibre cement boarding. Overall the property would measure 6.6m in height and 6.8m in width by 10m in depth.**
- 6.8 It is proposed that the property would be lived in all year round and not just on a holiday basis as per the existing chalet.

### Planning History

- 6.9 An application for a three storey contemporary style property was refused by members of the planning committee in Aug 2017. The refusal was on the basis that the development would be detrimental to the character and appearance of the area due to its excessive bulk, mass and overall size. Furthermore, the refusal makes reference to the out of character contemporary design of the property and its set forward prominent siting. A second reason for refusal concerned the lack of useable private amenity space.
- 6.10 A further planning application was refused in October 2017 by officers under delegated powers. Whilst the gambrel style roof design was considered to be more in keeping with the

character of the locality, the forward siting of the property was deemed to be unacceptable by virtue of its excessive prominence within the street scene. The property was also not served by sufficient private amenity space to accord with the saved policy requirements and the proposed windows to the rear of the dwelling were found to cause unacceptable levels of overlooking into neighbour's rear gardens.

#### Principle of Development

- 6.11 In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. **The requirements of the National Planning Policy Framework (NPPF) 2018 are a material consideration in this regard.**
- 6.12 The site comprises existing development outside of any defined settlement boundary contained in the saved or emerging local plans. However, as the site already accommodates a dwelling and the application represents a replacement property there is a general presumption in favour of development in principle.
- 6.13 However, this part of Point Clear Bay falls within Flood Zone 3a, therefore the Council is still required to give special consideration to flood risk issues and the requirements of the NPPF i.e. the 'sequential' and 'exceptions' tests. These are considered in more detail later in this report.
- 6.14 In the saved local plan the Point Clear Bay area falls within an area controlled by saved policy HG20 which is aimed at limiting development on plotland sites such as this. The preamble to the policy states, amongst other things, that it is recognised that many plotland dwellings offer substandard living accommodation and usually located on small sites. The purpose of the policy is therefore to ensure that the impact upon the landscape, street scene and residential amenity is minimalised and to assist in controlling the demand on local services and infrastructure. The main content of saved policy HG20 states that the replacement of lawful plotland dwellings will be allowed provided that the cubic content of the replacement dwelling does not exceed that permitted for the original dwelling under the tolerances of the General Permitted Development Order. This policy is however clearly out of date as the General Permitted Development Order has since changed and permitted development rights for extensions are no longer calculated on a cubic content basis.
- 6.15 Furthermore, as in Jaywick, the policy aimed at strictly controlling development has failed to bring about any positive changes in the area particularly in respect of flood risk. 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 is reflected by the fact that the plotland policy has not been carried forward within the 2017 Emerging Local Plan.
- 6.16 Saved Policy HG12 concerns the replacement of dwellings outside settlement development boundaries. This policy is criteria based and in particular sets out that new development should be well related to the original dwelling, is not visually intrusive, is not detrimental to highway safety, would not adversely affect the residential amenities of adjoining neighbours and sufficient spacing is retained around the dwelling to protect its setting.
- 6.17 Again as stated above a more flexible approach is required in assessing the development against this policy. It is evident that the dwelling will be larger than the existing property and higher to incorporate flood resilient measures and a place of safe refuge at first floor level for residents. As such the principle of replacing the existing building with a larger property is acceptable in principle. Consideration therefore turns to the detailed design of the proposal.

### Design/Visual Impact

- 6.18 **The original plans for the proposed dwelling showed a three storey high property with a double garage at ground floor. The proposed dwelling was significantly higher than the neighbouring properties.**
- 6.19 **At the Planning Committee on 30th May 2018 Members considered the original plans and requested that the application was deferred to enable officers to negotiate a building of reduced height and bulk to improve its appearance within the street scene and to ensure a more sympathetic relationship to neighbouring buildings. Consequently, amended plans have been received which show the second floor being removed and the building reduced to two-storey in height.**
- 6.20 **The significant reduction in height of the property from 7.95m to 6.6m ensures that the building would be less prominent in street scene views, would be of comparable height to the property to the west and would lessen the impact upon neighbours in terms of loss of outlook and light.**
- 6.21 **Whilst the proposed replacement property would still be larger in terms of its height and bulk than the existing chalet dwelling on the site, the reduced size and height of the dwelling assists in reducing the bulk of the building to acceptable levels. The property would be visible in views along Western Promenade particularly as the building would occupy a prominent corner plot that forms a vista in views from the east. However, the height and scale of properties in the area is mixed. To the west of the site is a tall chalet style dwelling with large dormers to the roof space and to the north is a brick built bungalow with a high ridge line. To the west along Western Promenade are some examples of three storey high properties of considerable bulk. The plans also show that the property has been set back further into the plot 4m back from the site frontage to reduce its overall prominence whilst 1m side isolation is retained to the boundaries.**
- 6.22 The design of properties in the locality is mixed. There are traditional brick built properties but there are also examples rendered and boarded buildings too. There are also examples of gambrel style three storey dwellings in the Point Clear Bay area. Consequently the gambrel style design approach incorporating cement boarding and concrete tile roofing would represent an appropriate response to the eclectic appearance of the area.
- 6.23 It is acknowledged by Officers that the dwelling would be higher and bulkier than the existing property on site. However, this is an area where the current standard of residential property places residents at a high risk of flooding – particularly if climate change results in rising sea levels as projected by the Environment Agency and in poor residential conditions. Because of this the development contains no main living accommodation on the ground floor to reduce the risk to residents in the event of a flood. As a result the building is required to be higher to allow for safe refuge in an event of a flood.
- 6.24 **As such Officers are of the opinion that the revised development acceptably overcomes the concerns raised by members previously and could help set the tone for the future regeneration of the area. If the Committee agrees that this approach is acceptable, this development provides an opportunity for other property owners to consider redevelopment to a more resilient, lower flood risk form of development.**

### Private Amenity Space

- 6.25 Saved policy HG9 of the adopted Tendring District Local Plan (2007) states that 2 bedroom properties should be served by a minimum of 75 sqm of private amenity space. The preamble to the policy confirms that it is important that private amenity space is a useable

space appropriate to the size of the dwelling, its surroundings and adequately screened to ensure privacy.

- 6.26 In this instance the property would be served by a private garden area measuring 76sqm thereby according with the requirements of the aforementioned saved policy. The presence of solid fencing to the side of the property will ensure that the garden remains useable and private.

### Residential Amenities

- 6.27 **The proposed dwelling would be two storeys high and therefore has the potential to impact upon the amenities of those residents living nearby.** To the north no.139 has an entrance door and associated window within its facing flank wall. As these are located northwards of the development and are not primary windows the impact upon light received by these openings would be minimal. In terms of outlook, no.139 has a small rear garden from which the development would be visible and fairly imposing. However, the distance and angle of the new property would reduce any impact in this regard.
- 6.28 To the west is no.137 which has an entrance door at first floor level accessed via a spiral staircase and a small high level window within its facing flank. These are not primary openings and therefore are not affected by the development. To the rear the property is served by a conservatory. It is conceded that the conservatory would lose some light and outlook as a result of the development; however the conservatory faces north and receives limited light at present. The set forward of the proposed property within the plot means that the development would not extend past the conservatory and therefore not have a significantly detrimental impact in this respect.
- 6.29 **In terms of overlooking, the front balcony faces south-east over an existing open grassed area and the frontage of properties on the opposite side of the road. Therefore views would be limited to public areas only. To the rear any concerns in respect of overlooking have been overcome by the inclusion of an obscure glazed bedroom window at first floor level only. The openings within the flanks of the building, due to the orientation of the development, would not look out over neighbour's private amenity areas.**

### Flood Risk

- 6.30 The site, and the rest of this part of Point Clear Bay, is in Flood Zone 3 which is the highest area of risk due to its low-lying position on the coast. The NPPF, as supported by relevant policies in the adopted and emerging Local Plans, requires a 'sequential approach' to the location of new development which seeks to direct new development to the locations at lowest risk. In Tendring, there are clearly many locations of lower risk where a single dwelling could be located however as this development relates to the replacement of a single storey chalet in a poor state of repair a more flexible approach is justified where new development can assist in the regeneration of the area and helping to reduce the risk of flooding to life and property overall.
- 6.31 The Environment Agency within their comments have made reference to the Flood Risk Vulnerability Classification and have stated that the Council may deem that the development proposed to replace a restricted occupation holiday home with a permanent dwelling could elevate the development from 'more vulnerable' to 'highly vulnerable', which would be contrary to national planning policy and as such unacceptable on a matter of principle. The Council is however of the opinion that as this development relates to a replacement building accommodating a permanent dwelling and not a change of use of the existing single storey holiday home the development remains within the 'more vulnerable' category.
- 6.32 **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 163 of the NPPF (2018) 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;**

- **the development is appropriately flood resistant and resilient;**
- **it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;**
- **any residual risk can be safely managed; and**
- **safe access and escape routes are included where appropriate, as part of an agreed emergency plan.**

6.33 The application is accompanied by a site-specific flood risk assessment which, as advised by the Environment Agency, provides sufficient information for the Council to make an informed decision. The conclusions and recommendations in the assessment are summarised as follows:

- The site is currently protected by flood defences with an effective crest level of 4.33m AOD which is above the present-day 0.5% (1 in 200) annual probability flood level of 4.3m AOD. Therefore the site is not at risk of flooding in this event. The current defences will continue to offer protection over the lifetime of the development, provided the hold the line policy is followed and the defences are raised in line with climate change, which is dependent on future funding.
- At the end of the development lifetime with climate change applied to the design 0.5% annual probability flood event, if the SMP policy is not followed then through overtopping of the current defences the resulting on-site flood level would be 5.38m AOD. The resulting actual risk depth of flooding on the site using the minimum site level of 1.96m AOD would be 3.42m deep, and in the building using the proposed finished floor levels of 2.11m AOD would be 3.27m deep.
- Finished first floor levels have not been provided but there will be refuge above the 0.1% (1 in 1000) annual probability breach flood level of 5.77m AOD.
- A Flood Evacuation Plan has not been provided and is necessary to ensure the safety of the development.

6.34 Flood resilience/resistance measures have been proposed including the following:

- Electrical sockets will be installed above the flood level for ground floors to minimise damage to electrical services and allow speedy re-occupation.
- Water, electricity and gas meters will be located above predicted flood level.
- Non-return valves will be used in the drainage system to prevent back-flow of diluted sewage in situations where there is an identified risk of the foul sewer surcharging.
- All service entries will be sealed (e.g. with expanding foam or similar closed cell material).
- Closed cell insulation will be used for pipes which are below the predicted flood level.
- Boiler units and ancillary devices will be installed above predicted flood level and preferably on the first floor of two-storey properties.
- Underfloor heating will be avoided on ground floors and controls such as thermostats will be placed above flood level.
- Wiring for telephone, TV, Internet and other services will be protected by suitable insulation to minimise damage.
- Engineering bricks (Classes A and B) will be used which has 'good' resilience in terms of water penetration, drying ability and retention of pre-flood dimensions and integrity.

- Building materials that are effective for a 'water exclusion strategy' will be used which include: engineering bricks, cement-based materials including water retaining concrete and dense stone.
- Building materials that are suitable for a 'water entry strategy' will be used which include: facing bricks, concrete blocks, sacrificial or easily removable external finishes or internal linings.

6.35 The submission of an evacuation plan can be secured through a planning condition. The submitted plans show living accommodation at first floor level which in the event of the SMP not being followed and a 1 in 200yr and 1 in 1000yr breach would allow for the safe refuge of residents. The flood proofing/resilience measures proposed can also be secured through a condition to ensure the proposed building incorporates construction measures that can withstand potential flood waters.

6.36 Overall, it is considered that the development would meet with the NPPF Exception Test and when considering the lightweight construction and single storey nature of the current property on site would represent a significant improvement in terms of flood risk to future residents.

#### Highways

6.37 Essex County Council Highways raise no objections to the proposals as the property is sited onto a private road. The development shows two parking spaces of a size commensurate with the requirements of the current parking standards.

#### Conclusion

6.38 Therefore in the absence of any objections from the Environment Agency and Essex County Council Highways and in weighing up the advantages of the development against the disadvantages, the application is recommended for approval subject to conditions.

#### Background Papers

None.