

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	10/08/2018
Planning Development Manager authorisation:	SCE	14.08.18
Admin checks / despatch completed	pw	5/8/18

File

Application: 18/00566/FUL **Town / Parish:** St Osyth Parish Council
Applicant: Ms L Knapp
Address: 25 Tower Estate St Osyth Clacton On Sea
Development: Proposal for replacement dwelling in keeping with neighbouring dwellings.

1. Town / Parish Council

St Osyth Parish Council

No objections.

2. Consultation Responses

ECC Highways Dept

This Authority has assessed the highway and transportation impact of the proposal and would not wish to raise an objection to the above subject to the following;

NOTE: - Public Rights of Way - The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath no29 (St Osyth) south west of the proposed building shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

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

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

INF1 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:

Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ.

Environment Agency

We have inspected the application, as submitted, and have no objection to the proposal, providing that you have taken into account the flood risk considerations which are your responsibility.

Flood Risk

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 replacement dwelling which is classed 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 (FRA). The key points from the FRA are as follows:

Actual Risk

The replacement dwelling is of similar size and layout to the existing dwelling, so there is no increase in vulnerability at the site and the flood risk to the proposed development remains the same as the risk faced by the existing development. The proposed replacement dwelling also provides betterment through the inclusion of a first floor, flood resilient construction, and details of flood warning and evacuation, as detailed in the below bullet points.

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 4.25m AOD. Therefore the site is not at risk of flooding in the present-day 0.5% (1 in 200) annual probability flood event.

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 5.41m AOD, would overtop the existing defences, and the proposed dwelling would be at actual risk of flooding, to deep flood depths, as detailed below for the residual risk section.

Residual Risk

Our undefended flood levels show that in a worst-case scenario the site could experience breach flood levels of up to 5.46m AOD during the 0.5% (1 in 200) annual probability including climate change breach flood event and up to 5.86m AOD during the 0.1% (1 in 1000) annual probability including climate change breach flood event. The FRA used LIDAR to determine the site level as 1.88m AOD. It is not clear if this is the level of the site for the ground floor or the lower ground floor. The LPA should request a GPS verified topographic site survey if they require a more accurate determination of site levels,

floor levels and flood depths, in order to determine the safety of the proposed development and occupants.

The resultant flood depths on the site level of 1.88m AOD are 3.58m deep for the 0.5% (1 in 200) annual probability including climate change breach flood event and 3.98m deep for the 0.1% (1 in 1000) annual probability including climate change breach flood event. You may wish to ask the applicant to provide a breach assessment for the development site in their FRA so that you can make a more informed decision on flood risk.

Therefore 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 breach flood event including climate change, and the 0.1% (1 in 1000) annual probability including climate change breach flood event.

Finished ground floor levels have been proposed at 300mm above ground level, so we assume this is a level of 2.18m AOD. This is below the 0.5% annual probability breach flood level including climate change of 5.46m AOD and therefore at risk of flooding by 3.28m depth in this event. The ground floor is also below the 0.1% annual probability breach flood level including climate change of 5.86m AOD and therefore at risk of flooding by 3.68m depth in this event. Flood resilience measures have been proposed to enable the proposed dwelling to recover quicker and easier in a flood. The proposed replacement dwelling has a first floor which the existing does not so there is a higher refuge available which provides betterment over the existing. Finished first floor levels have not been proposed, but it is unlikely that the floor level will be more than 3.28m above the ground floor level, so a higher refuge above the flood depths may not be available, and the first floor may also be at risk of flooding, potentially to a metre depth or so.

A Flood Response Plan has not yet been proposed in detail, however the FRA mentions receiving flood warnings and either evacuating or taking higher refuge. A Flood Response Plan is necessary to ensure the safety of the development in the absence of safe access and with internal flooding in the event of a breach flood. As the safety of the development in a breach flood is reliant on a Flood Response Plan we strongly recommend that the LPA request that a full Flood Response Plan is submitted and that they ensure that their Emergency Planner is satisfied that it ensures the safety of the development with internal flooding of the first floor and unsafe access.

3. Planning History

05/01307/FUL	Bedroom Extension	Refused	16.09.2005
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4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG9 Private Amenity Space

HG12 Extension to or Replacement of dwellings outside Settlement Development Boundaries

HG14 Side Isolation

HG20 Plotland Development - Replacement Dwellings and Extensions to Existing Dwellings

QL3 Minimising and Managing Flood Risk

COM31A Sewerage and Sewage Disposal

COM33 Flood Protection

EN1 Landscape Character

EN13 Coastal Protection Belt

TR7 Vehicle Parking at New Development

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

SPL3 Sustainable Design

PPL1 Development and Flood Risk

PPL2 Coastal Protection Belt

PPL3 The Rural Landscape

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 with the plan-led approach.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site is situated to the south west of Tower Estate, within the settlement boundary of the Saved Local Plan 2007 but located outside of the Publication Draft (2017). It is located within an area defined as Plotland Development, Flood Zone 3 and within the Coastal Protection Belt of the Saved and Publication Draft Local Plan. The area surrounding the site has a variety of different types of properties, all in close proximity to each other.

The existing dwelling is detached and constructed from render with a felt covered pitched roof. The dwelling is built across two floors with external steps to the side of the dwelling, which leads to a public footway and the sea wall.

Proposal

The application seeks planning permission for the replacement of the existing dwelling. As the ground level changes, the proposal will be viewed as having two storeys to from the front of the elevation and three storeys in height from the rear elevation at Tower Estate. The dwelling will comprise of a car parking area and secure storage to the ground floor with a kitchen, dining and W.C to the first floor. The second floor will comprise of three bedrooms, a bathroom and an en-suite.

The dwelling will measure 6.1 metres in depth, 8.6 metres in width with an overall height of 8.2 metres from the rear elevation and 6.1 metres in height from the front elevation.

Principle of Development

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) are a material consideration in this regard.

The site is designated as a "plotland development" site within the adopted Tendring District Local Plan 2007 where Policy HG20 becomes relevant. Saved Policy HG20 sets out the criteria by which development of such plots is permitted and states "replacement of lawful plotland dwellings will be permitted 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." The emerging Tendring District Local Plan Publication Draft 2017 does not include a comparably policy.

The planning history for the site shows that the hut is not subject to any restrictive occupancy conditions and therefore constitutes a lawful permanent dwelling. The proposed dwelling has a larger footprint than the existing dwelling by approximately 79 square metres. This increase in size is considered acceptable as there are other examples along Tower Estate of a similar scale and design. The proposal is above any increase which could be done under permitted development rights.

Visual Amenity

QL9, QL10 and QL11 of the Tendring District Local Plan (2007) seeks that all new development should make a positive contribution to the quality of the local environment and protect or enhance the local character and that development should not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby property.

The proposed replacement dwelling is larger in height and bulk than the existing chalet dwelling on the site. The surrounding area is a mixture of design and types of dwellings which all face the sea and are located on land which slopes downwards which results in the dwellings having an extra floor when being viewed from the rear elevation. The proposed dwelling is taller than the existing dwelling, but it will not be any higher than the two storey properties in the immediate vicinity and therefore it is considered to be in keeping with the character of the area. The proposed dwelling is considered to be of a better design than the existing dwelling and given the variety of designs in the surrounding area would not result in any material harm.

Notwithstanding the above, the proposal fails to meet the criteria set out in Policy HG14 of the 2007 Local Plan as it is within one metre of the boundary and over 4 metres in height on the boundary shared with no. 24 Tower Estate. However, the reasons given for this requirement is to ensure that the proposed development is appropriate in its setting and does not create a cramped appearance and to safeguard the amenities of adjoining residents. It is therefore considered that the proposal is acceptable in terms of visual amenity.

Impact upon neighbouring amenities

The proposed dwelling would be two storey high and therefore has the potential to impact upon the amenities of those residents living nearby. To the North West, no. 24 is a three storey dwelling of a similar appearance and design to that of the proposed but with a different roof form. There are no windows proposed on the side elevation to overlook onto the neighbouring dwelling. Although the neighbouring property does comprise of side windows on the side elevation which serve a shower room and landing, they are not primary windows and therefore the impact upon light received by these openings will be minimal. There is also a side window serving a lounge/dining area, which can be viewed from the front elevation. Due to the dwelling being set back, it is considered that there will be no significant impact upon neighbouring amenities.

The neighbouring dwelling to the south east, no. 26 is a single storey dwelling which shares the existing stairs leading to the promenade as shown on the plans. There are no windows proposed on the side elevation of the proposal to cause any overlooking to the neighbouring dwelling. Due to the sufficient distance between the proposal and the neighbouring dwelling, it is considered that the proposal will not cause any significant impact upon the windows situated along the side elevation of no.26.

The proposed works would result in parts of the replacement dwelling, being less than 1 m set away from the boundary failing to comply with Policy HG14 of the Tendring District Local Plan. However, the reasons given for this requirement is to ensure that the proposed development is appropriate in its setting and does not create a cramped appearance and to safeguard the amenities of adjoining residents. In this regard it is noted that there are other replacement dwellings in the area and therefore it is considered that the proposal would not result in any material harm to neighbouring amenities.

Highway Issues

Essex County Highways have been consulted on this application and do not wish to raise any objections. The proposed replacement dwelling provides two car parking spaces to the ground floor and to the front of the application site which complies with Essex Parking Standards.

Flood Risk

The application is for a replacement dwelling, there will be an increase in the number of bedrooms, however the additional bedrooms will be located to the first floor and there is no principle objection. A Flood Risk Assessment has been submitted which sets out measures that will be used to reduce the risk to persons and property from the potential flooding. This is considered to be acceptable.

The Environment Agency have been consulted on this application and have no objection.

The proposal is for a replacement dwelling, so the risk from the danger of flooding is not increased. The dwelling provides betterment through the inclusion of flood resilient construction and safe refuge.

Coastal Protection Belt

Saved Policy EN3 of the Tendring District Local Plan 2007 and Draft Policy PPL2 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to protect the unique and irreplaceable character of the Essex coastline from inappropriate forms of development as well as seeking to improve public access to and enjoyment of the coast in accordance with the National Planning Policy Framework.

The proposal will not have a substantial impact upon the Coastal Protection Belt as the proposal is for a replacement dwelling and therefore the character will not change.

Other Considerations

St Osyth Parish council have no objection to the application.

1 letter of objection has been received raising the following concerns:

1. Current plans show the planned works are on the neighbouring dwellings land and the access stair way is to be demolished and rebuilt however this is not owned by no.26. The amended drawing PO1e varies the position of the property boundaries which is subject to dispute.

The concern raised above has been confirmed by the agent of this application that the stair way is shared between the host dwelling and no. 26 and therefore this has been included within the submitted plans. Furthermore, it has been confirmed that the stairs will only be maintained and that no works to the stairs will be undertaken which require planning permission. The agent has provided a land registry map demonstrating the boundaries and it is thought that this correlates with the plans provided. Boundaries are not a material planning consideration and this is a private issue between neighbours.

Conclusion

Based on the details as set out in the above report, it is considered that the proposed development would not result in material harm to the character of the area or neighbouring amenity. The application is recommended for approval.

6. Recommendation

Approval - Full

7. Conditions / Reasons for Refusal

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: DWG.No. P01e.

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

- 3 Prior to occupation of the hereby approved development a Flood Warning and Evacuation Plan shall have been submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details and the Flood Warning and Evacuation Plan shall remain a live document and be updated where required.

Reason - The site is at risk from flooding and a detailed evacuation plan is essential to safeguard future occupiers of the development.

- 4 Notwithstanding the details submitted no development shall be commenced until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - The success of the design of the approved dwelling is dependant on the use of complimentary materials and insufficient information has been submitted within the application for full consideration of these details

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Public Rights of Way

The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public rights and ease of passage over public footpath no29 (St Osyth) south west of the proposed building shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

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

Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ.

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO