

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	ML	03/10/2018
Planning Development Manager authorisation:	AN	8/10/18
Admin checks / despatch completed	AN	9/10/18

ER

Application: 18/01186/FUL **Town / Parish:** Clacton Non Parished

Applicant: Mr Jan Kita

Address: 35 Sunbeam Avenue Jaywick Essex

Development: Erection of new dwelling, resubmission of 14/01317/FUL.

1. Town / Parish Council

Clacton – No Town Council

2. Consultation Responses

ECC Highways Dept

The Highway Authority raises an objection to the above application for the following reasons:

As far as can be determined from the submitted plans the proposal fails to provide off street parking spaces with dimensions in accord with current Parking Standards which is likely to lead to vehicles being left parked in the adjacent highway causing conditions of danger, obstruction or congestion contrary to highway safety and Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

There is insufficient space in front of the proposed new dwelling for a vehicle to stand entirely clear of the carriageway of Sunbeam Avenue or provides any circulatory space which will constitute a danger to pedestrians and motorists contrary to highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

As far as can be determined from the submitted plans the proposal fails to provide sufficient off road parking facilities in accord with current Parking Standards. The proposal would lead to additional vehicles being left parked in the adjoining highway adding to the existing parking stress in this area and causing conditions of congestion, danger and obstruction, contrary to the interests of highway safety and contrary to Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

As far as can be determined from the submitted plans the applicant fails to own or control sufficient land for efficient and convenient access manoeuvres (parallel park) into and out of the proposed parking space which is likely to lead to the vehicle being left parked in the carriageway of Sunbeam Avenue causing conditions of danger, obstruction and congestion contrary to the interests of highway safety

and contrary to Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

Environment Agency

We have reviewed the submitted flood risk assessment referenced 4589/2.3F and dated September 2014 and are removing our holding objection to this application, provided that the condition outlined below on flood risk is included should permission be granted, and you have taken into account the flood risk considerations which are your responsibility. We have highlighted these in the flood risk section below. You should also consider whether the proposed replacement dwelling could include any more flood risk betterment.

We request the following condition is appended to any permission granted:

Condition

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) prepared by GTA Civils referenced 4589/2.3F and dated September 2014 and the following mitigation measures detailed within the FRA:

- 1) Finished ground floor levels are set no lower than 3 metres above Ordnance Datum (AOD).
- 2) Finished first floor levels are set no lower than 5.65 metres above Ordnance Datum (AOD).

3. Planning History

04/00724/FUL	Side extension to property.	Approved	16.06.2004
05/00974/FUL	Proposed front and side extension to the property	Approved	27.07.2005
12/60304/HOUEN Q	Internal layout to be changed, entrance doors steps will be erected inside not outside as approved (lack of space outside)		19.07.2012
12/00860/FUL	Proposed replacement dwelling.	Refused	22.10.2012
14/01317/FUL	Replacement dwelling.	Approved	01.05.2015
18/01186/FUL	Erection of new dwelling, resubmission of 14/01317/FUL.	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 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

HG3 Residential Development Within Defined Settlements

HG9 Private Amenity Space

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

CL15a Jaywick Regeneration

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

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL1 Development and Flood Risk

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. 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 site is located at No. 35 on the western side of Sunbeam Avenue and is within the Settlement Development Boundary for Jaywick as established in the saved and draft local plans. The site contains a single-storey, detached dwelling with no off-street car parking. The site is within Flood Zone Level 3; an area of high flood risk. The surrounding area is characterised by single storey, detached dwellings in varying degrees of condition and in a variety of building styles. Most dwellings are sited closely to the highway edge and the vast majority have no form of off-street car parking.

Proposal

The proposal is for a replacement dwelling. The development is very similar to that approved under reference 14/01317/FUL, aside for cosmetic tweaks to the position of the openings and the dormer to the roof.

Planning History

Planning permission (ref: 12/00860/FUL) for a replacement dwelling was refused. The grounds for refusal were:

- absence of an acceptable Flood Risk Assessment

- development of single plot width, single storey height with habitable rooms at ground floor level, a rear yard of less than 5m depth, side isolation of less than 1m and development less than 2m from the highway.

As stated above planning permission for a replacement dwelling was then approved in 2014 under reference 14/01317/FUL. As this application represents a re-submission of the previously approved application the officer's report is replicated below and updated where relevant.

Appraisal

Replacement Dwelling

The site originally accommodated a dwelling, which was partially replaced without planning permission. Retrospective planning permission was then refused in 2012 (ref: 12/00860/FUL) for the reasons set out above.

The design changed under the 2014 permission but the development still sought approval for a replacement dwelling within the defined settlement boundary of Jaywick.

Flood Risk

The site is located in Flood Zone 3, an area of high flood risk. Whilst new housing in such areas would have to, amongst other things, pass the sequential test for flood risk, the proposal is for a replacement dwelling. Such a replacement dwelling is not obliged to pass the sequential test for flooding and would not increase flood risk elsewhere. Furthermore, there are other material planning considerations that are relevant in this regard. Firstly, the proposal will be a replacement dwelling and therefore the proposal should be considered in that context. In particular, the proposal replaces a single-storey dwelling with a two-storey dwelling. Such an extra storey allows bedrooms to be located at first floor, which will reduce the sensitivity of the site to flood risk. Secondly, the proposal previously included a Flood Warning Evacuation Plan (FWEP), which sets out the course of action before, during and after a period of flood. The FWEP was agreed in conjunction with the Council's Emergency Planners and suitably sets out the requirements in times of flood. This management of flood events allows some residual risk to be further mitigated. Thirdly, the Environment Agency have raised no objection to the proposal based on the findings of the previously submitted FRA and subject to conditions that the proposal should have ground floor and first floor finished floor levels set at 3m and 5.65m AOD respectively.

Highway Safety

The existing dwelling has no off street car parking provision, an arrangement that is continued with the proposal. Similarly with the 2012 refusal there was no off-street car parking provision and it did not form part of the reason for refusal. The Council's parking standards have not changed since 2012. On this basis, the Council has no objection to the proposal on highway safety grounds, despite an objection from the Highways Authority on the absence of off street car parking spaces.

Character and Appearance

The surrounding area, as set out above, is characterised by detached bungalows. There is a variety in building designs and roofscapes with some gable and some hipped roofs. Most properties have a normal roof pitch, but some have steeper or shallower pitches. Some of the nearby properties are in a poor condition. There is a 1 1/2 storey building at no. 43 Sunbeam Avenue.

The proposal is of 1 1/2 storeys and presents a gable roof to the street scene. Whilst this size is larger than most of Sunbeam Avenue, there are other examples of 1 1/2 storey buildings and within the confines of this plot, the proposal sits comfortably. This is assisted through the proposed side isolation gaps, which ensure that within the context of Sunbeam Avenue, the proposal will not appear cramped in the street scene. Visually the proposal will make a positive contribution by virtue of its simple, but modern design, fenestration and external materials.

More specifically, saved plan Policy CL15 sets out various siting criteria, as mentioned in the 2012 refusal, that rear yards should be of at least 5 metres depth, 1 metre side isolation and front building line at least 2 metres from the highway. In this instance, the proposal has a rear yard of 3.4 metres depth, side isolations of 1.0 metre and 0.9 metres, and set back from the highway by 2 metres. Discussion of residential amenity is set out in further detail below, but the other requirements in this policy (e.g. side isolation and the front building line) are broadly met with this proposal.

Residential Amenity

The proposal sets out approximately 25 square metres of private amenity space. The standards set out in the saved plan Policy HG9 require at least 100 square metres for a 3-bedroom dwelling, such as this. Whilst the proposal only sets out a 25% provision, it needs to be compared to the existing provision of the dwelling, which has approximately 28 square metres of private amenity space for a 1-bedroom dwelling, which represents a 56% provision. Further guidance is set out in saved plan Policy CL15, which requires rear yards to be at least 5 metres in depth, which would not be met in this instance. The prescriptive policy approach of saved plan Policy CL15 is not sustained in the draft local plan. Furthermore, there are several factors that should be considered too. Firstly it should be recognised that the proposal is a replacement dwelling, with an existing amenity space shortfall. Secondly the proposal offers some amenity benefits from the first floor balcony. Thirdly the prevailing character in the surrounding area is also one with restricted areas of private amenity space. Fourthly there is an Article 4 Direction in place in this part of Jaywick that removes permitted development rights relating to extensions, thereby protecting the further erosion of private amenity space. Finally, it should also be noted that the public beach at Jaywick is approximately 200m from the site.

It is also necessary to consider any loss of residential amenity for neighbouring properties. The proposal includes 2 no. first floor, rear-facing windows. As these are rear-facing, any overlooking of neighbouring properties will only be at an oblique angle, they will not result in any material loss of privacy for neighbouring properties. Any side facing windows are at ground floor level and therefore quite restricted through side boundary treatments. There is a side facing window that serves a staircase. However, as this is unlikely to be a place that occupants would linger, it would not be necessary to make this window obscure glazed. Furthermore, whilst the ground floor level is raised slightly, this could be effectively screened through a suitable side boundary treatment, which will be secured by condition. The proposal does increase the massing of the site. However, in juxtaposition to neighbouring dwellings, the property will not result in any material harm through a loss of sunlight/daylight or a loss of outlook.

Conclusion

The extra storey, FWEP and raised floor levels allow an improvement in terms of residual flood risk to the building and its occupants. Furthermore, in street scene terms, the proposal will be a visual improvement upon the existing building and despite its height will not be out of character with the street scene. Additionally, the reasons set out in the previous refusal have been adequately addressed. Within this context, the shortfall in private amenity space is, on balance deemed acceptable.

Other Considerations

No further letters of representation have been received.

6. Recommendation

Approval

7. Conditions

- 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: 051, 101 and 104.

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

- 3 The finished ground floor level and first floor level of the hereby approved development shall be set no lower than 3m AOD and 5.65m AOD respectively.

Reason - To reduce the flood risk to the building and occupants.

- 4 The hereby approved development shall only be implemented in accordance with the agreed Flood Risk Assessment produced by GTA Civils Ltd, referenced 4589/2.3F.

Reason - To reduce the flood risk to the building and occupants.

- 5 The hereby approved development shall only be implemented in full accordance with the agreed Flood Warning Evacuation Plan Version 4th Issue (dated April 2015). The Flood Warning Evacuation Plan shall remain in force for the duration of the occupation period and shall remain a live document and be updated where required.

Reason - The site lies within flood zone 3 at high risk from flooding and a detailed evacuation plan is essential to safeguard occupiers of the development.

- 6 Prior to the commencement of any above ground works a scheme detailing the boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented prior to the first occupation of the hereby approved dwelling and retained in the approved form unless otherwise agreed in writing by the Local Planning Authority

Reason - To protect the privacy of neighbouring properties.

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.

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