

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	18/10/2018
Planning Development Manager authorisation:	AN	18/10/18
Admin checks / despatch completed	[Handwritten initials]	19/10/18

Application: 18/00975/FUL **Town / Parish:** St Osyth Parish Council

Applicant: Mrs E Kingston

Address: 15 Tower Estate St Osyth Clacton On Sea

Development: Replacement dwelling following demolition of existing.

1. Town / Parish Council

St Osyth Parish Council
ORIGINAL COMMENTS

Whilst the Parish Council does not object to the application itself, Councillors would seek assurance that the development does not impinge on the footpath.

St Osyth Parish Council
AMENDED COMMENTS

No additional comments to those above.

2. Consultation Responses

ECC Highways Dept

The Highway Authority observes that Tower Estate is not Publicly Maintainable Highway and therefore does not object to the proposals as submitted.

Informative1: The public's rights and ease of passage over Public Footpath Nos 25 & 29 (St Osyth) shall be maintained free and unobstructed at all times.

Informative2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

SMO1 ' Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

Environment Agency
ORIGINAL COMMENTS

Thank you for your consultation received on 4 July 2018. We have inspected the application, as submitted, have no objection providing that you have taken into account the flood risk considerations which are your responsibility. We have provided further information regarding the sea defences and flood risk below. You should consider whether the proposed replacement dwelling could include any more flood risk betterment, such as raising floor levels above flood levels or providing a higher refuge.

Assets

We do require access to the wall in front of this property, however the plan provided in the Design and Access Statement shows that the proposed building will be the same distance from the wall as the existing one. If these plans change, we request that we are re-consulted.

These works will not require a Flood Risk Activity Permit. This is because the works will not trigger a Flood Risk Activity according to The Environmental Permitting (England and Wales) (Amendment) (No.2) Regulations 2016, Schedule 25, Part 1.

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 as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. 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). To assist you in making an informed decision about the flood risk affecting this site, the key points to note from the submitted FRA, prepared by Tecton Land, referenced Flood and dated June 2018, are:

Actual Risk

-The replacement dwelling is of similar size and layout to the existing dwelling, although it does result in additional habitable space, which could result in additional people residing there. However, as 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 raised floor levels, flood resistant/resilient construction, safe refuge and a Flood Evacuation Plan.

-The site lies within the flood extent for a 0.5% (1 in 200) annual probability event, including an allowance for climate change.

-The site does benefit from the presence of defences. The defences have 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. The defences will continue to offer protection over the lifetime of the development, provided that the hold the line Shoreline Management Plan (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 5.41m 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

The FRA does not explore the risk of a breach of the defences. 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 states that site levels are around 1.8m AOD. It is not clear

where this level is derived from, although it is within a reasonable tolerance of our LIDAR levels. You should request a GPS verified topographic site survey if you 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 1.8m AOD are 3.66m depth for the 0.5% (1 in 200) annual probability including climate change breach flood event and 4.06m depth for the 0.1% (1 in 1000) annual probability including climate change breach flood event.

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) and 0.1% (1 in 1000) annual probability breach flood events including climate change.

Therefore this proposal does not have a safe means of access in the event of flooding from all new buildings to an area wholly outside the floodplain (up to a 0.5% (1 in 200) annual probability including climate change flood event). We have no objections to the proposed development on flood risk access safety grounds because an Emergency Flood Plan has been submitted by the applicant but you should determine its adequacy to ensure the safety of the occupants.

-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.

-Finished lower ground floor levels have been proposed as existing at 1.8m AOD and is intended for use as a garage/storage area. Level 1, where habitable accommodation is proposed, is to be set at 4.3m AOD. Whilst this is 0.2m above the current level 1 floor level (providing betterment), it should be noted that it is below the 0.5% annual probability breach flood level including climate change of 5.46m AOD and therefore at risk of flooding by 1.16m depth in this event. Level 1 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 1.56m depth in this event.

-Flood resilience measures have been referred to within the FRA, and we strongly recommended they are incorporated in to the design of the dwelling to enable it to recover quicker and easier in a flood.

-The proposed replacement dwelling has a second level, which the existing does not so there is a higher refuge available which provides betterment over the existing. On this level, finished floor levels have been proposed at 6.6m AOD, and therefore there is refuge above the 0.1% (1 in 1000) annual probability breach flood level of 5.86m AOD.

-A Flood Response Plan has not yet been proposed in detail, however the FRA confirms that a flood response plan will be submitted to you prior to occupation of the dwelling. 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 you request that a full Flood Response Plan is submitted and that they ensure that your Emergency Planner is satisfied that it ensures the safety of the development with internal flooding of the first floor and unsafe access. More information regarding flood risk can be found in the technical appendix.

The additional information for this planning application submitted 24th September 2018 has not changed our position so please refer to our previous response ref AE/2018/123013/01 dated 24th July.

Environment Agency
AMENDED COMMENTS

3. Planning History
None relevant.

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 Extensions 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

COM33 Flood Protection

EN1 Landscape Character

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.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application relates to number 15 Tower Estate, St Osyth. The application site is situated to the north west of Tower Estate directly adjacent to the sea wall, located outside the settlement development for the area as defined within both the adopted Tendring District Local Plan 2007 and the emerging Local Plan Publication Draft (2017). The site is located within an area defined as Plotland Development, Flood Zone 3 and within the Coastal Protection Belt of the adopted and emerging local plans.

The immediate locality is characterised by densely built, 2-3 storey dwellings of differing designs and finishes.

The application dwelling is a two storey detached property with a combination of pitched and flat roof forms. The accommodation currently consists of garage and storage at ground floor level with the living area, bathroom and 2 bedrooms at first floor level. The dwelling is finished in render to the lower floor and brown weatherboarding to the upper floor. There are external steps to the side of the dwelling which leads to a public footway/promenade and the sea wall.

Proposal

The application seeks full planning permission for the replacement of the existing dwelling with a larger, higher dwelling comprising 3 floors.

The ground floor will accommodate garage and storage areas, the first floor will accommodate a living area leading out onto the patio area adjacent to the promenade, a bathroom and a bedroom with the second floor comprising a kitchen and further living area leading out onto a balcony with a further bathroom and bedroom.

Due to the change in site levels, the dwelling will be viewed as having two storeys from the front sea wall side and three storeys in height from the rear elevation at Tower Estate.

The overall width of the dwelling will measure 9.7 metres (reducing to 5.5 metres to the Tower Estate end and upper floors), 11.6 metres in depth (reducing to 10.5 metres on the upper levels excluding the balcony) with an overall height of 7.7 metres.

Assessment

The main considerations are;

- Principle of Development (Plotland Development Site);
- Design and Appearance;
- Residential Amenities;
- Highway Safety and Parking;
- Flood Risk;
- Impact on the Coastal Protection Belt; and,
- Representations.

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 property is not subject to any restrictive occupancy conditions and therefore constitutes a lawful permanent dwelling. The proposed dwelling has a larger cubic content than the existing dwelling and goes beyond works that could be carried out as permitted development under the current legislation. However, this increase is proportionate to the existing property, is not excessive or harmful and results in flood risk benefits that outweigh any increase in size that could be seen to be contrary to the aims of Plotland policy which pre-dates current permitted development legislation.

Design and Appearance

Following concerns with the scale, height and design approach taken with the proposed replacement, the application has been heavily amended in order to ensure that the development results in a more traditional design approach and an overall height that appears in keeping with the existing street scene and character. With other examples along Tower Estate of a similar scale and design, the amended proposal is considered acceptable in design terms and will not result in any significant visual impact.

The footprint mostly meets the side isolation requirements and due to the angled site boundaries results in an overall spacious appearance within its plot therefore meeting the aims of saved Policy HG14 of the adopted Tendring District Local Plan 2007.

Residential Amenities

The proposed dwelling does result in an increase in height, depth and width and introduces new windows and balcony areas therefore resulting in a change in the relationship with the immediate neighbours and the potential to result in some impact upon the amenities of the occupiers of these dwellings.

The angled site boundaries and angled siting of the adjacent dwellings ensures that the development retains a sufficient distance to existing side windows to not result in any material loss of light. Photographs taken from within number 14 demonstrate that clear views between the dwellings and into adjacent patio/balcony areas already exist. Due to the location of the dwellings on this prominent public right of way, views into existing windows and living areas are possible from the public domain also. It would therefore be unreasonable to refuse the proposed replacement dwelling on residential amenity grounds. The impact on the side facing windows of neighbouring properties would not be materially different to the existing situation and there would be no impact on the end windows to the Tower Estate elevation.

The width and depth increase is not significant and does not extend beyond the existing neighbouring properties. The height has been reduced as far as possible whilst ensuring the levels meet the requirements of the Environment Agency in regard to flood risk and flood safety.

Whilst it is recognised that the development will result in some impact to neighbouring properties, any impact could not be considered significantly harmful or sufficient to justify a refusal on this ground alone.

Highway Safety and Parking

Essex County Highways have been consulted on this application and do not wish to raise any objections as the road is classified as a private road.

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 replacement dwelling is of similar size and layout to the existing dwelling, although it does result in additional habitable space, which could result in additional people residing there. However, as the 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 raised floor levels, flood resistant/resilient construction, safe refuge and a Flood Evacuation Plan.

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.

Impact on the 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.

Representations

St Osyth Parish council have no objection subject to the replacement dwelling not overhanging the promenade.

The amended design retains an ample set back from the promenade with the balcony being wholly within the site overhanging the patio area only.

No individual letters of representation have been received.

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

- 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: PBP v4, P101 v4, DRAWING NUMBER P100-4 REV v4, and A v4.

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 No above ground level works shall commence 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 identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, 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.

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.

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.

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.