

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	13/12/18
Planning Development Manager authorisation:	AN	17/12/18
Admin checks / despatch completed	AN	18/12/18

GR

Application: 18/01704/FUL **Town / Parish:** Clacton Non Parished

Applicant: Mr Kandiah

Address: Reunion House Ellis Road Clacton On Sea

Development: Construction of three two bedroom houses, re-organisation of car park and provision of fixed refuse storage.

1. Town / Parish Council

Clacton – Non Parished.

2. Consultation Responses

Tree & Landscape Officer There are no trees or any other significant vegetation of merit on the application site.

The applicant site is 'land-locked' by adjacent buildings and the amenity value of any existing or proposed planting is likely to be relatively low. Nevertheless the site plan shows new planting that would enhance the appearance of the immediate environs and provide other general benefits associated the 'greening' of the development.

If planning permission is likely to be granted then a condition should be attached to secure details of the indicative soft landscaping shown on the site layout plan.

ECC Highways Dept The Highway Authority does not object to the proposals as submitted.

Informative1: 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

UU Open Spaces Response from Public Experience
Open Space & Play

Application Details

Application No: 18/01704/FUL

Site Address: Reunion House, Ellis Road Clacton on Sea Essex

Description of Development: Construction of three two bedroom houses, re-organisation of car park and provision of fixed refuse storage

Current Position

There is currently a deficit of 41.08 hectares of play in the Clacton/Holland area. However, there is adequate formal open space to cope with some additional development.

The nearest play space to the development site is located on Marine Parade West and is classified as a Local Equipped Area for Play.

Any further development in Clacton will increase the current play deficit further. To prevent this deficit from growing it would be necessary to provide additional play equipment in the area.

Recommendation

Due to the significant lack of play facilities in the area it is felt a contribution towards play is justified and relevant to the planning application.

The contribution would be used to update or provide new play equipment at:

Marine Parade.

3. Planning History

11/00996/FUL	Construction of 2 No. 1 bed flats and 6 No. 2 bed flats on the existing roof.	Approved	21.12.2011
17/01807/FUL	Construction of an access walkway to the rear elevation of the building, to provide independent access to the first and second floors.	Approved	11.12.2017

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

COM6 Provision of Recreational Open Space for New Residential Development

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG9 Private Amenity Space

HG13 Backland Residential Development

HG14 Side Isolation

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

HP5 Open Space, Sports and Recreation Facilities

LP1 Housing Supply

LP4 Housing Layout

LP8 Backland Residential Development

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

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

Site Description

The application site, which measures 0.18 hectares, is land to the east of Ellis Road and to the west of Reunion House, within Clacton-on-Sea. The site is currently utilised for car parking with a gated access off Ellis Road. The car park was previously used to serve the offices associated within Reunion House; however following 16/01361/COUNOT, the first and second floors were confirmed to change use from B1 business use to C3 residential use.

The character of the surrounding area is highly urbanised; to the east is the aforementioned Reunion House, which to its ground floor also incorporates several commercial outlets, a local supermarket and St Helena Hospice. To the west is Ellis Road, which features numerous residential development in the form of either terraced or semi-detached properties. The site falls within the Settlement Development Boundary for Clacton-on-Sea within both the Adopted Tendring Local Plan 2007 and within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Proposal

This application seeks full planning permission for the erection of three terraced dwellings, each to serve two bedrooms.

The proposal will also include the re-arrangement of the car park to accommodate a total of 29 parking spaces, one for each flat at Reunion House and for the proposed dwellings, and also a purpose design refuse storage area to the west of the application site.

Assessment

1. Principle of Development

The site is situated within the defined settlement limits of Clacton-on-Sea as defined by both the adopted Tendring District Local Plan (2007) and emerging Publication Draft (2017), and therefore the principle of residential development in this location is acceptable subject to the detailed considerations as set out below.

2. Backland Development

The development involves the construction of a terrace of three dwellings in a 'backland' location to the rear of the established residential frontage along Ellis Road. With regards to Policy HG13 of the 2007 Local Plan (and echoed in policy LP8 of the draft Local Plan), it states proposals for the residential development of backland sites must comply with the following criteria:

- i. the site lies within a defined settlement development boundary and does not comprise land allocated or safeguarded for purposes other than a residential use;
- ii. where a proposal includes existing private garden land which would not result in less satisfactory access or off-street parking arrangements, an unacceptable reduction in existing private amenity space or any other unreasonable loss of amenity to existing dwellings;
- iii. a safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will be discouraged;
- iv. the proposal does not involve "tandem" development using a shared access;
- v. the site does not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;
- vi. the site is not on the edge of defined settlements and likely to produce a hard urban edge or other form of development out of character in its particular setting; and
- vii. the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development.

The main problems that can arise as a result of backland development include undermining the established character of an area (especially if similar schemes were to be repeated elsewhere in a locality); dwelling plots appearing cramped relative to their surroundings; the fragmentation of established gardens with a loss of mature landscaping; and the infringement of neighbouring residents' amenities. Development behind an established building line can also appear incongruous, particularly with isolated dwellings.

There must also be proper means of access to backland development, which is safe and convenient for both drivers and pedestrians, with a turning area where necessary to avoid the need for vehicles to reverse onto a public highway. A proposed access should avoid excessive disturbance or loss of privacy to neighbouring residents through, for example, an access drive passing unreasonably close to an adjoining dwelling. The likely frequency of use by vehicular traffic and the suitability of the access for service vehicles and the emergency services will also be relevant material considerations.

In respect of the policy criteria noted above the development is considered to meet the requirements as follows;

- i. the site is located within a defined settlement boundary in both the saved and emerging local plans; however is not designated for any particular use;
- ii. the plans show that the private amenity area for plot 1 will be 64sqm, for plot 2 50sqm and for plot 3 78sqm. Policy HG9 of the Adopted Local Plan states two bedroom properties should have a minimum of 75sqm, meaning that plots 1 and 2 fall short. Further, the plans show provision for one off-street parking space per dwelling which does not accord with the two spaces required within Adopted Car Parking Standards, whilst the existing access point will remain. Despite the above private amenity area and off street parking provisions not meeting the recommended standards, it is also noted that the site is located within a highly sustainable location in close proximity to Clacton Town Centre, which offers a range of services, and also areas of amenity including the

beach and greensward. Therefore, on balance, the harm identified is not considered so significant to warrant a reason for refusal.

iii. the private access would be located on the western side of the site along Ellis Road. Whilst there will be a slight degree of noise disturbance to occupants of 36 and 38 Ellis Road, the comings and goings associated with three additional dwellings are not considered to be excessive, especially given the site is currently operating as a car park, whilst the access is in situ currently so will result in no visual detriment to the street scene.

iv. the proposal does not represent a form of 'tandem development' and will not use a shared access.

v. the site is of a regular shape and would not compromise a more comprehensive development solution.

vi. the development of the site would not form a hard urban edge to the settlement as the land is surrounded by residential and commercial development to all sides.

vii. Due to the remainder of the site being used for car parking in relation to both Reunion House and the proposed dwellings, this development would not in itself set a harmful precedent. However, whilst the surrounding area is heavily urbanised with a mixture of development to all sides, the development pattern is well defined and runs linear north to south along both Ellis Road and Jackson Road. It is noted that Jackson House to the north extends beyond the typical pattern of development, however is still connected to Jackson Road and therefore has not set a precedent for this form of backland development. There are no other examples of development situated behind the well-defined building lines along either Ellis or Jackson Road. Given this, the siting of the proposed dwellings would appear incongruous and out of character within this setting, resulting in a harmful form of development contrary to the above policies.

3. Layout, Design and Appearance

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

As previously discussed above, the surrounding area is heavily urbanised with significant levels of residential and commercial development to all sides; however the proposed siting of the three residential dwellings would not be in-keeping with the existing pattern of development and would therefore be a harmful addition to the character of the surrounding area.

There is initially no principle objection to three terraced dwellings given the character of the surrounding area sees largely semi-detached and terraced properties. In terms of the design, the surrounding area is of no special defined or visual merit that necessarily needs to be adhered to. Against this backdrop, whilst the proposed dwellings do not have particular design features to help soften their impact, there is not considered to be significant harm that could form part of the reason for refusal.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of two bedrooms or more should be a minimum of 75sqm. Whilst the plans show that this is achievable for plot 3 (78sqm), plots 1 (64sqm) and 2 (50sqm) fall short of that. However, as detailed above as the site is located within a highly sustainable location in close proximity to areas of amenity including the beach, the harm of falling below the required standards is not strong enough to recommend a reason for refusal.

4. Impact upon neighbours

Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

There are a number of residential properties within the surrounding area potentially impacted by the proposed development, namely those residents occupying Reunion House to the east and the residential properties along Ellis Road to the west and West Avenue to the South. However, given that there will be sufficient separation distances to most of these properties, the impacts in terms of the dwellings appearing imposing or resulting in a significant loss of light is not considered to be substantial. Further, the dwellings have been designed to ensure there are no first floor side elevation windows that would be able to directly overlook neighbouring amenity areas.

With respect to Number 28 Ellis Road specifically, the proposed first floor rear elevation windows, particularly for plot 3, will directly look on to their private rear garden areas. These windows will serve a bedroom, which is a room likely to be regularly occupied, and will result in a significant loss of privacy, further enhanced by the dwellings' relatively close proximity that will appear imposing. The proposal is therefore contrary to the aims and aspirations of the afore-mentioned policies and guidance.

It is acknowledged there are some potential impacts to Number 30 Ellis Road; however given that any views from proposed first floor rear elevation windows will be at an oblique angle, the harm on balance is not considered excessive enough to form part of the reason for refusal.

With regards to potential noise disturbance for 36 and 38 Ellis Road, as previously stated the comings and goings associated with three additional dwellings are not considered to be excessive, especially given the site is currently operating as a car park.

4. Highway Impacts

Essex County Council as the Highways Authority do not object to the proposed development.

Adopted Car Parking Standards state that for a dwelling with two bedrooms or more, provision should be made for a minimum of two parking spaces measuring 5.5m x 2.9m. The submitted plans only demonstrate one parking space at the above measurements. However, given the sites highly sustainable location within good walking distance to Clacton Town Centre, on balance, one parking space per dwelling is considered to be acceptable.

5. Legal Obligations

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

The Council's Public Open Space and Play Team have stated there is currently a deficit of 41.08 hectares of play in the Clacton/Holland area. However, there is adequate formal open space to cope with some additional development.

The nearest play space to the development is located on Marine Parade West and is classified as a Local Equipped Area for Play. Any further development in Clacton will increase the current play deficit further and therefore due to a significant lack of play facilities in the area it is felt a contribution towards play is justified and relevant to the planning application. The money would be spent on play facilities at Marine Parade.

This application has not come with a correctly completed unilateral undertaking for a contribution towards play and formal open space facilities.

No such contribution has been included within this application and therefore this scheme does not comply with Policy COM6.

Other Considerations

It is worth noting that there are no principle objections to the proposed re-arrangement of the car park or bin storage area, and had the application been solely for these it would have been recommended for approval.

Clacton is non-parished so no comments are required.

There have been no other letters of representation received.

6. Recommendation

Refusal.

7. Reasons for Refusal

- 1 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 124 is to always seek to secure high quality design. Policy QL9 and EN1 of the Tendring District Local Plan 2007 (Saved Plan) and Policy PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) seeks to ensure that development is appropriate in its locality and does not harm the character and appearance of the rural landscape.

Policy HG13 (vii) of the Adopted 2007 Local Plan states that proposals for residential development of 'backland' sites will only be permitted if the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development. These sentiments are echoed within Policy LP8 (f) of Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Whilst the surrounding area is heavily urbanised with a mixture of development to all sides, the development pattern is well defined and runs linear north to south along both Ellis Road and Jackson Road. It is noted that Jackson House to the north extends beyond the typical pattern of development, however is still connected to Jackson Road and therefore has not set a precedent for this form of backland development. There are no other examples of development situated behind the well-defined building lines along either Ellis or Jackson Road. Given this, the siting of the proposed dwellings would appear incongruous and out of character within this setting, resulting in a harmful form of development contrary to the above local and national policies.

- 2 Saved Policy QL11 of the Tendring District Local Plan 2007 states development will only be permitted where it will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. Draft Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) states all new development must make a positive contribution to the quality of the local environment and buildings should be designed and orientated to ensure adequate daylight and outlook for existing residents.

With respect to Number 28 Ellis Road, the proposed first floor rear elevation windows for plot 3 will directly look on to their private rear garden areas. These windows will serve a bedroom and will result in a significant loss of privacy, further enhanced by the dwellings' relatively close proximity that will appear imposing.

The proposal is therefore contrary to the aims and aspirations of the afore-mentioned policies and guidance.

- 3 Paragraph 54 of the National Planning Policy Framework (2018) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they meet are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

There is currently a deficit of 41.08 hectares of play in the Clacton/Holland area.

The nearest play space to the development is located on Marine Parade West and is classified as a Local Equipped Area for Play. Any further development in Clacton will increase the current play deficit further and therefore due to a significant lack of play facilities in the area a contribution towards play is justified and relevant to the planning application. The money would be spent on play facilities at Marine Parade.

This application has not come with a correctly completed unilateral undertaking for a contribution towards play and formal open space facilities.

No such contribution has been included within this application and therefore this scheme does not comply with Policy COM6.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.