

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	10/05/19
Planning Development Manager authorisation:	AN	13/5/19
Admin checks / despatch completed	SB	14/05/19

**Application:** 18/01614/OUT **Town / Parish:** Little Clacton Parish Council

**Applicant:** Mr Tony and Mrs Kay Chamberlain

**Address:** Land adjacent to Sundowne Homing Road Little Clacton

**Development:** One dwelling.

### 1. Town / Parish Council

Little Clacton Parish Council

This is a proposed 2 new bungalows. Little Clacton Parish Council has concerns for the listed building, Amerells Farm, that could suffer possible damage due to the nearness of the proposed building works. We would like to see this resolved if approval were to be considered.

### 2. Consultation Responses

ECC Highways Dept

Homing Road is a private road therefore, from a highway and transportation perspective the Highway Authority has no comments to make on this proposal.

Tree & Landscape Officer

The main body of the application site is set to grass and forms part of the residential curtilage of the host property.

There is an established hedgerow on the boundary with Homing Road comprising Hawthorn, Blackthorn, Dog Rose, Brambles and Ivy. There is a small Oak tree situated in the main body of the hedge.

Forming part of the front boundary hedge and at the westernmost point of the application site immediately adjacent to the existing vehicular access there is short section of coniferous hedge comprising Cupressocyparis Leylandii. The section of hedge is a dominant feature in the public realm but does not fall within the scope of legislation under which it could be formally protected.

On the southern boundary of the land there is a new planted laurel hedge and two established conifers; another Leylandii and a Golden Conifer ' neither tree merits protection by means of a tree preservation order. Further back into the site, also on the southern boundary, there are is young Maple and a young Silver Birch. Both trees are visible from the PROW to the south of the application site but the benefit that they provide to the amenities of the locality is not such that they merit legal protection. Their amenity value could be relatively easily replicated by new planting.

The tree with the greatest amenity value is the mature Oak in the south western corner of the application site. The tree is a mature healthy specimen with a well formed crown and dense canopy. The

tree has no obvious defects when viewed from ground level and can be clearly seen and enjoyed from adjacent highway land and a PROW.

An assessment of the amenity value of the tree has been carried out in accordance with the Tree Evaluation Method for Preservation Orders (TEMPO) methodology.

The tree meets the criteria under which it merits protection; therefore a new TPO has been made to afford it formal legal protection.

In order to show the extent of the constraint that the tree is on the development potential of the land and to show, if possible, that the development of the land could take place without causing harm to the tree the applicant should provide a tree survey and report. This information should be in accordance with BS5837: 2012 Trees in relation to design, demolition and construction: Recommendations.

In terms of the impact of the development on the local landscape character it will be important to secure a good level of soft landscaping especially to address the planting and screening on the boundary with Homing Road and the southern boundary.

Tree & Landscape Officer  
(Following submission of amended plans)

I have now had a chance to visit the site again and checked the stem diameter of the tree on site. I've also had another look at the figures presented by the applicant.

Although the RPA should be 8.02m and not 8.2 – the difference is marginal and the difference is in favour of the tree.

Therefore the information provided is acceptable.

UU Open Spaces  
(dated 10 January 2019)

Current Position

There is currently a deficit of 2.22 hectares of equipped play in Little Clacton. However, there is adequate formal open space in the area to cope with some future development.

There is one play area in the village which is located along London Road. This play area is designated a Local Equipped Area for Play, but is limited in size. To cope with any additional usage it would be necessary to increase the play provision at this site.

Recommendation

Due to the significant lack of play facilities in the area, a contribution towards play is justified and relevant to the planning application and that this money would be spent at the only play area in Little Clacton. Any contribution would be used to improve the facilities at:

Harold Lilley Playing Field- Little Clacton

UU Open Spaces  
(following submission of amended plans, dated 19 March 2019)

Current Position

There is currently a deficit of 2.22 hectares of equipped play in Little Clacton. However, there is adequate formal open space in the area to cope with some future development.

There is one play area in the village which is located along London Road approximately 1 miles from the proposed development. This

play area is designated a Local Equipped Area for Play, but is limited in size.

#### Recommendation

Due to the size of the development and the distance from the nearest play area. It is unlikely that there will be an impact on this play area. Therefore no contribution is required on this occasion.

### 3. Planning History

06/01434/FUL	Change of use of arable field to garden.	Approved	17.10.2006
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### 4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN23 Development Within the Proximity of a Listed Building

HG1 Housing Provision

HG9 Private Amenity Space

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 & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL9 Listed Buildings

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 supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for

housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

## 5. Officer Appraisal

### Site Description

The application relates to land adjacent to the south of Sundowne, to the south-eastern corner of Homing Road within the parish of Little Clacton. The site, which measures approximately 0.15 hectares, is set to grass and forms part of the residential curtilage of Sundowne. The character of the surrounding area relatively urbanised, with residential built form adjacent to the north, east and west. To the south is a large parcel of land that is currently laid to grass; however has planning permission for the erection of 98 dwellings which was won at appeal.

The site is outside of the Settlement Development Boundary for Little Clacton within the Saved Tendring District Local Plan (2007) but falls inside within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft. To the east of the site is Amerells Farm, a Grade II Listed Building. To the west and south of the site is a Public Right of Way.

### Description of Proposal

The application seeks outline consent with all matters reserved for the erection of one dwelling.

The original plans were for outline permission for two detached dwellings; however given the proposal represented a form of backland development that would not be supported due to its tandem layout that would be out of character with the surrounding area, the plans were amended.

### Assessment

#### 1. Principle of Development

The site is situated within the defined settlement limits of Little Clacton as defined by the 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. Design, Layout 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).

The application is in outline form with all matters reserved and therefore detailed plans do not form part of the determination of this application, and as such no elevational drawings have been submitted. Design within any future application should look to be in-keeping and not detrimental to the character of the surrounding area. While the plans do not highlight the dwellings height, it is worth noting there are a mixture of single and two storey properties in the immediate location. Therefore the principle of either a single or two storey dwelling would be acceptable in this location within any future detailed application.

The plans do include an indicative layout that shows the proposed dwelling would be located to the south of 'Sundowne'. This suggested layout ensures the dwelling will add to the relatively strong building line adjacent to the north, and is therefore acceptable.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of one bedroom should be a minimum of 50 square metres, for a dwelling of two bedrooms should

be a minimum of 75 square metres and for a dwelling of three bedrooms or more should be a minimum of 100 square metres. The information that has been supplied does not indicate the number of bedrooms; although there is sufficient space within the site to ensure there will be enough private amenity space for the proposed dwelling.

### 3. Heritage Impact

Paragraph 196 of the National Planning Policy Framework (2018) states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Policy EN23 of the Adopted Local Plan states that proposals for development that would adversely affect the setting of a Listed Building, including group value and long distance views, will not be permitted. The sentiments of this policy are carried forward within Policy PPL9 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Approximately 50 metres to the east of the proposed dwelling lies Amerells Farm, which is a Grade II Listed Building. It is therefore important to assess the impact of the proposed dwelling upon the setting of this listed building. However, it is noted the application site is well screened, thereby ensuring there are no existing views of Amerells Farm from the west; the proposed dwelling would therefore result in no loss of long distance views. Further the significant separation distance ensures the protected buildings setting will be preserved.

Therefore, the works result in less than substantial harm to a designated heritage asset and will also provide a small public benefit with one additional dwelling. Therefore the development is acceptable against the criterion of the above national and local policies.

### 4. Residential Amenities

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).

Whilst the application is in outline form with all matters reserved, Officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties or the future occupiers of the proposed dwellings.

### 5. Highway Safety and Parking

Essex County Council as the Highway Authority has been consulted on the application and has stated that as Homing Road is a private road from a highway and transportation perspective they have no comments to make.

Furthermore, the Council's Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. There is considered to be sufficient space to accommodate this with any future detailed application.

### 6. Tree and Landscape Impacts

The Council's Tree and Landscapes Officer has been consulted, and originally stated the following:

*"The main body of the application site is set to grass and forms part of the residential curtilage of the host property. There is an established hedgerow on the boundary with Homing Road"*

comprising Hawthorn, Blackthorn, Dog Rose, Brambles and Ivy. There is a small Oak tree situated in the main body of the hedge.

Forming part of the front boundary hedge and at the westernmost point of the application site immediately adjacent to the existing vehicular access there is short section of coniferous hedge comprising *Cupressocyparis Leylandii*. The section of hedge is a dominant feature in the public realm but does not fall within the scope of legislation under which it could be formally protected.

On the southern boundary of the land there is a new planted laurel hedge and two established conifers; another *Leylandii* and a Golden Conifer. Neither tree merits protection by means of a tree preservation order. Further back into the site, also on the southern boundary, there are is young Maple and a young Silver Birch. Both trees are visible from the Public Right of Way to the south of the application site but the benefit that they provide to the amenities of the locality is not such that they merit legal protection. Their amenity value could be relatively easily replicated by new planting.

The tree with the greatest amenity value is the mature Oak in the south western corner of the application site. The tree is a mature healthy specimen with a well formed crown and dense canopy. The tree has no obvious defects when viewed from ground level and can be clearly seen and enjoyed from adjacent highway land and a PROW.

An assessment of the amenity value of the tree has been carried out in accordance with the Tree Evaluation Method for Preservation Orders (TEMPO) methodology.

The tree meets the criteria under which it merits protection; therefore a new TPO has been made to afford it formal legal protection.

In order to show the extent of the constraint that the tree is on the development potential of the land and to show, if possible, that the development of the land could take place without causing harm to the tree the applicant should provide a tree survey and report. This information should be in accordance with BS5837: 2012 Trees in relation to design, demolition and construction: Recommendations.

In terms of the impact of the development on the local landscape character it will be important to secure a good level of soft landscaping especially to address the planting and screening on the boundary with Homing Road and the southern boundary."

However, following the submission of amended plans to reduce the number of proposed dwellings from two to one, and the submission of a plan to show the development in relation to the Root Protection Area, the Council's Tree and Landscapes Officer has confirmed the development is acceptable without causing harm to the protected tree.

## 7. 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 -2.22 hectares of equipped play in Little Clacton, however due to the size of the development and the distance from the nearest play area (approximately 1 mile away at London Road) there is not considered to be an impact on this play area, and therefore no contribution is required on this occasion.

## 8. Habitats Regulation Assessment

Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.

Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be the RAMS level contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites. The contribution is secured by unilateral undertaking. There is therefore certainty that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

#### Other Considerations

Little Clacton Parish Council neither object nor support the scheme, but have concerns with the impacts of the proposed development on Amerells Farm, a Grade II Listed Building.

In answer to this, the heritage impacts have been discussed within the main body of the report above.

There has also been one letter of objection received, with concerns the proposal is backland development, is too close to a listed building and the Council already have a five year housing supply.

In answer to this, following the submission of amended plans the proposal does not now represent backland development, while the heritage impacts have been assessed above. Further, the site also falls within a recognised Settlement Development Boundary, meaning the principle of a residential dwelling in this location is acceptable.

#### **6. Recommendation**

Approval.

#### **7. Conditions**

- 1 The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

- 3 No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the access, appearance, landscaping, layout and scale have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - The application as submitted does not provide sufficient particulars for consideration of these details.

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans, drawing numbers 1801/P01, the untitled plan showing an indicative layout



dated 15 March 2019 and the untitled plan showing the Root Protection Area of the protected tree on site.

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

- 5 No development shall take place until the existing trees on the site, agreed with the Local Planning Authority for inclusion in the scheme of landscaping, have been protected by the erection of temporary protective fences of a height, size and in positions which shall previously have been agreed, in writing, with the Local Planning Authority. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected. Any trees dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with trees of appropriate size and species during the first planting season, or in accordance with such other arrangement as may be agreed in writing with the Local Planning Authority, following the death of, or severe damage to the trees.

Reason - To ensure the trees on site are not damaged during the construction of the proposed dwelling.

## **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.

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) financial contribution in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.