

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	20/05/19
Planning Development Manager authorisation:	SCE	21.05.19
Admin checks / despatch completed	PW	22/5/19

ER

Application: 18/01938/FUL **Town / Parish:** St Osyth Parish Council

Applicant: Mr & Mrs K Williams

Address: 22 Tower Estate St Osyth Clacton On Sea

Development: Demolition of existing dwelling and erection of replacement dwelling.

1. Town / Parish Council

St Osyth Parish Council No objections.

2. Consultation Responses

Environment Agency
(Amended Comments) Have reviewed the amended application, as submitted, and are satisfied that our objection can now be removed.

Flood Risk Activity

We have no objection to the latest design drawings as the property will not overhang the seawall promenade, allowing access for maintenance, and does not include any further cutting into the defence beyond the layout of the existing building.

This application will require a Flood Risk Activity Permit as it triggers a flood risk activity as outlined under the terms of The Environmental Permitting (England and Wales) (Amendment) (No.2) Regulations 2016, Schedule 25, Part 1. As part of this application calculations and drawings must be provided for the foundations of the dwelling as well as for the basement retaining wall.

Flood Risk

We have no issues with the amended plans from a flood risk perspective. It should be noted that the floor levels appear higher than the previous submission so we would recommend that you follow the floor levels in these updated plans when determining this application. We trust that this advice is useful.

Environment Agency Have inspected the application, as submitted, and are raising a holding objection to this proposal on grounds of interaction with the sea wall defence. Our objection and guidance on how the applicant can overcome this is highlighted in the flood risk activity section below. We also request conditions on finished floor levels, detailed in the flood risk section alongside additional flood risk advice.

Flood Risk Activity

We are raising a holding objection on grounds of interaction with the sea wall defence, due to insufficient information being provided, which

is required to demonstrate the integrity of the sea wall defence will not be compromised by these development works.

The building is on a section of defence that we maintain. We need to ensure access for plant along the crest by no overhang from properties, and that the design does not include any further excavations into the landward side of the defence. Structures should be outside the 45 degree slope angle of the defence. There is insufficient information provided regarding the design of the lowest floor of the property to confirm whether any further excavations are planned and therefore confirm approval.

Overcoming our Objection

The applicant can overcome our objection by:

- Submitting detailed drawings and information to confirm building structures will be set outside the 45 degree slope angle of the defence.

Flood Risk

We have no objection to the proposal on grounds of flood risk because the site is currently defended and the Shoreline Management Plan (SMP) policy for this area has an aspiration for hold the line. If the SMP policy is not taken forward the development would be unsafe in the future. Please take note of this and the other flood risk considerations which are your responsibility. We have highlighted these in the flood risk section below, and request the finished floor levels condition as detailed.

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 demolition of existing two storey dwelling and erection of replacement three storey dwelling which is classified 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). If you are satisfied that the application passes these Tests and will be safe for its lifetime, we request the following conditions are 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 MLM Consulting Engineers Ltd, referenced 619982-MLM-ZZ-XX-RP-C-0001 and dated 19/11/2018 and the following mitigation measures detailed within the FRA: 1. Finished ground floor levels are set no lower than 3.85 metres above Ordnance Datum (AOD). 2. Finished first floor levels are set no lower than 5.75 metres above Ordnance Datum (AOD). The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority. Reason To reduce the risk of flooding to the proposed development and future occupants. To assist you in making an informed decision about the flood risk affecting this site, the key points to note from the submitted FRA, are: Actual Risk

- The site is currently protected by flood defences with an effective crest level of 4.73m AOD which is above the present-day 0.5% (1 in 200) annual probability flood level of 4.30m 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 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 the existing defences.

Residual Risk

- Section 3.1 .2 of the FRA explores the residual risk of a breach using the Tendring District Council Strategic Flood Risk Assessment (SFRA). The site could experience breach flood depths of up to 1.5 metres during the 0.5% (1 in 200) annual probability including climate change breach flood event and up to 1.5 metres during the 0.1% (1 in 1000) annual probability 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) annual probability flood event including climate change.

- Finished ground floor levels have been proposed at 3.85m AOD. This is below the 0.5% (1 in 200) annual probability breach flood level including climate change of 4.25 m AOD and therefore at risk of flooding by 0.4m depth in this event.

Finished upper floor levels have been proposed at 5.75m AOD and therefore there is refuge above the 0.1% (1 in 1000) annual probability breach flood level.

- Flood resilience/resistance measures have been proposed.

- A Flood Evacuation Plan has been proposed. Shoreline Management Plan The current defences protect this area against a tidal flood with a 0.5% (1 in 200) annual probability of occurrence. However, the impacts of climate change on sea levels over the development's lifetime will gradually reduce the level of protection afforded by the defences if they are not raised within this timeline. Without the raising of the defence, the site could flood should a tide with a 0.5% (1 in 200) annual probability flood event plus climate change occur,) which could be contrary to the advisory requirements of Paragraphs 059 and 060 of the National Planning Policy Framework's Planning Practice Guidance. These advise that there should be no internal flooding in 'more vulnerable' developments from a design flood. This could also present challenges to the safety of the users of the buildings and a future reliance on evacuation or emergency response. The Essex and South Suffolk Shoreline Management Plan (SMP) has a policy of 'Hold the Line' until 2105 for Point Clear to St Osyth Creek location, so it is possible that the flood defences may be raised in line with climate change to continue to protect against the future 1 in 200 annual probability flood event for the lifetime of the development. When determining the safety of the proposed development, you should take this uncertainty over the future flood defences and level of flood protection into account. This

may require consideration of whether obtaining the funds necessary to enable the defences to be raised in line with climate change is achievable. This would be required to prevent the proposed development being at unacceptable flood risk of internal flooding in the design event. Guidance for Local Council

Building Control and
Access Officer

The stepped approach to the entrance door should be suitable for ambulant disabled persons.

The applicant is advised to ensure that suitable means of escape is provided to the bedrooms given the stepped nature of the site. Given the proximity of the boundaries at their closest point the applicant is advised to ensure that the openings comply with unprotected area requirements.

ECC Highways Dept

The information that was submitted in association with the application has been fully considered by the Highway Authority. The proposal is located in a Private Road and includes adequate vehicle parking, the replacement dwelling is located clear of the adjacent Public Right of Way Footpath 29 (St Osyth), therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority as it is not contrary to the following Development Management policies:

- A) Safety: Policy DM 1 of the Highway Authority's Development Management Policies February 2011
- B) Accessibility: Policy DM 9 of the Highway Authority's Development Management Policies February 2011
- C) Efficiency/Capacity: Policy DM 1 of the Highway Authority's Development Management Policies February 2011
- D) Road Hierarchy: Policy DM 2-4 of the Highway Authority's Development Management Policies February 2011
- E) Parking Standards: Policy DM 8 of the Highway Authority's Development Management Policies February

pp Director for Highways & Transportation
Enquiries to Caroline Tracey
Telephone: 03330 130119
Email: caroline.tracey@essex.gov.uk

3. Planning History

18/01938/FUL Demolition of existing dwelling and Current
erection of replacement dwelling.

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

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

COM31A Sewerage and Sewage Disposal

COM33 Flood Protection

EN1 Landscape Character

EN6 Biodiversity

EN11A Protection of International Sites: European Sites and Ramsar Sites

Policy EN11b – Protection of National Sites: Sites of Special Scientific Interest, National Nature Reserves, Nature Conservation Review sites, Geological Conservation Review sites.

EN13 Sustainable Drainage Systems

TR7 Vehicle Parking at New Development

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

SPL3 Sustainable Design

PPL1 Development and Flood Risk

PPL2 Coastal Protection Belt

PPL3 The Rural Landscape

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph

48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the 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 (including Site Description and Proposal)

Site Description

The application site is 22 Tower Estate, which is located south west of Tower Estate, 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). It is located within an area defined as Plotland Development, Flood Zone 3 and within the Coastal Protection Belt of the Saved and Publication Draft Local Plan. The area surrounding the site has a variety of different types of properties, all in close proximity to each other.

The existing dwelling is detached and constructed from sand faced render with a felt roof. The dwelling is built across two floors with external steps to the side of the dwelling leading to a raised terrace. The terrace has a gate which leads to a public footway and the sea wall.

Proposal

The application seeks planning permission for the replacement of the existing dwelling. As the ground level changes to the proposal will be viewed as having two storeys from the front of the elevation and three storeys in height from the rear elevation of Tower Estate. The dwelling will comprise of a garage/boat store and shower to the ground floor, a kitchen, dining, living and utility/cloaks to the first floor and three bedrooms and a bathroom to the second floor.

The dwelling will measure 7.4 metres in width, 6.8 metres in depth with an overall height of 8.5 metres from the rear elevation and 6.6 metres in height from the front elevation.

Assessment

The main considerations for this application are:

- Principle of development
- Design and Appearance
- Residential Amenities
- Highway Safety and Parking
- Flood Risk

- Impact on the Coastal Protection Belt
- Protection of National and International Sites – RAMSAR and Sites of Special Scientific Interest
- 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

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

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

The materials proposed; face brick work, cement based cladding, metal roofing and uPVC windows and doors are considered to be in keeping with the character of the area and therefore are considered acceptable.

Notwithstanding the above, the proposal fails to meet the criteria set out in Policy HG14 of the 2007 Local Plan as it is within one metre of the boundary and over 4 metres in height to the rear front boundary adjacent to the sea wall. 1 metre is retained to the boundary shared with number 23 Tower Estate and the proposal retains 2 metres to the boundary shared with number 21 Tower Estate. The Policy is to ensure that the proposed development is appropriate in its setting and does not create a cramped appearance and to safeguard the amenities of adjoining residents. It is therefore considered that the proposal is acceptable in terms of visual amenity.

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.

To the north of the application site is Number 21 Tower Estate. The proposal incorporates a decking area and two windows on the side elevation to the first floor serving the kitchen and dining area and bedroom 1 and 2 to the second floor, all of which will be situated closer to the neighbouring dwelling. The proposed dwelling is sited further forward than Number 21 and therefore any impact and overlooking will occur to the front of the dwelling which is the public façade of the building.

To the south of the application site is Number 23 Tower Estate. The proposed dwelling itself will be situated further away from the neighbouring dwelling than the existing by approximately 1 metres. There are two windows proposed on the side elevation facing Number 23; one at the sea wall level serving the living room and one at the upper level serving bedroom 3. These windows will look towards the existing windows of the neighbouring property (Number 23). However, the impact on the side facing windows of this neighbouring property would not be materially different to the existing situation and there would be no impact on the end windows to the Tower Estate elevation. 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 due to the relationship with the promenade and beach. The introduction of the decking may result in the outside area being utilised more and some impact, but the relationship between the two buildings this is not considered to warrant a reason for refusal. The proposed replacement dwelling will be higher than the existing. It is considered that due to the orientation, the increase in height would not adversely impact upon Number 23. There will be some adverse impact upon Number 21, but this will be to the front of the dwelling, as a result this would not be sufficient enough to warrant a reason for refusal.

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 comprises of a garage/boat store to the ground floor of the dwelling which falls short of the Essex parking requirements of 7 metres by 3 metres. Three parking spaces are shown on drawing no. 2421/05 C, however, it is noted that two parking spaces are only achievable to the rear of the application site in line with Essex parking standards requirements of spaces to measure 5.5 metres by 2.9 metres.

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.

Protection of National and International Sites – RAMSAR and Sites of Special Scientific Interest

Policy EN11a of the Tendring District Local Plan 2007 states that development which may affect a European Site, a proposed European Site or a Ramsar site, will be subject to the most rigorous examination. Development that is not directly connected with or necessary to the management of the site for nature conservation, which is likely to have significant effects on the site (either individually or in combination with other plans or projects) and where it cannot be ascertained that the proposed would not adversely affect the integrity of the site, will not be permitted unless:

- i. There is no alternative solution;
- ii. There are imperative reasons of over-riding public interest for the development; and
- iii. And in the event that (i) and (ii) above are met, an appropriate compensatory habitat is provided.

Policy EN11b of the Tendring District Local Plan states that Development in or likely to affect Sites of Special Scientific Interest will be subject to special scrutiny. Where such development may have an adverse effect, directly or indirectly on the special interest of the site it will not be permitted unless the reasons for the development clearly outweigh the nature conservation value of the site itself and the national policy to safeguard such sites. Where the site concerned is a National Nature Reserve (NNR) or a site identified under the Nature Conservation Review (NCR) or Geological Conservation Review (GCR) particular regard will be paid to the individual site's national importance.

It is considered that there would be no greater impact as the proposal is for a replacement dwelling.

Other Considerations

St Osyth Parish Council have no objections to the application.

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

1. Loss of light to number 23
2. Work shouldn't commence before 8.30am

In regards to concern number 1, this has been addressed within the report. Concern number 2 is not a material planning consideration and therefore this has not been taken into consideration. If you do have concerns please contact the Environmental Protection team.

Conclusion

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

6. Recommendation

Approval - Full

7. Conditions / Reasons for Refusal

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

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

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Drawing No. 2421/08 C, Drawing No. 1109/01, Drawing No. 2421/01 C, Drawing No. 2421/03 C, Drawing No. 2421 04C, Drawing No. 2421/05 C,

Drawing No. 2421/ 06 C, Drawing No. 2421/07 C, Design and Access Statement dated 17th November 2018 and Flood Risk Assessment scanned 20th November 2018.

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

- 3 The hereby approved development shall only be implemented in full accordance with the agreed Flood Risk & Evacuation Plan (prepared by MLM Consulting Engineers Limited scanned – 07 May 2019). 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 is at risk from flooding and a detailed evacuation plan is essential to safeguard future occupiers of the development.

- 4 The development shall not be occupied until such time as the car parking area, indicated on the approved plans, has been hard surfaced and sealed. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason - To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

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.

Flood Risk

This application will require a Flood Risk Activity Permit as it triggers a flood risk activity as outlined under the terms of The Environmental Permitting (England and Wales) (Amendment) (No.2) Regulations 2016, Schedule 25, Part 1. As part of this application calculations and drawings must be provided for the foundations of the dwelling as well as for the basement retaining wall.

Building Regulations

The stepped approach to the entrance door should be suitable for ambulant disabled persons.

The applicant is advised to ensure that suitable means of escape is provided to the bedrooms given the stepped nature of the site.

Given the proximity of the boundaries at their closest point the applicant is advised to ensure that the openings comply with unprotected area requirements.

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