

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	12/07/2019
Planning Development Manager authorisation:	TF	12/07/2019
Admin checks / despatch completed	SB	12/07/2019

ER

Application: 18/01513/FUL **Town / Parish:** Clacton Non Parished

Applicant: Mr and Mrs Hughes

Address: 15 Fernwood Avenue Holland On Sea Clacton On Sea

Development: Proposed three bedroom bungalow.

1. Town / Parish Council

Clacton is non parished.

2. Consultation Responses

ECC Highways Dept

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following measures:

1. No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6 metres of the highway boundary
Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1.

2. Notwithstanding the width of the vehicular access shown in the planning drawing 01 C the proposed vehicular access to the south of the existing vehicle access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 4.5 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/ verge. Full details to be submitted to and approved in writing with the Local Planning Authority.
Reason: To ensure that vehicles can enter and leave the carriageway in a controlled manner in the interest of highway safety in accordance with policy DM1

3. There shall be no discharge of surface water onto the Highway.
Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1

4. Each vehicular parking space which is bounded by walls or other construction shall have minimum dimensions of 3.4 metres x 5.5 metres.

Reason: To encourage the use of off-street parking and to ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8

5. All off street car parking shall be in precise accord with the details contained within the current Parking Standards.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8.

6. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

7. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

8. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative 1: Any 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.

Informative 2: Although the proposal would widen the existing crossover and exceed the width recommended in the ECC Vehicle Crossing Procedure, the extended width dropped kerb would allow space within the site to be utilised for parking and allow vehicles to enter and leave the highway in a controlled manner.

To provide the required vehicle accesses as shown on the submitted drawing it is noted that an existing tree in the highway verge may need to be removed. If any replacement trees are proposed the applicant should be made aware that any tree planting proposed within the highway must be agreed with the Highway Authority. Trees must be sited clear of all underground services and visibility splays and must be sympathetic to the street lighting scheme. All proposed tree planting must be supported by a commuted sum to cover the cost of future maintenance, to be agreed with the Highway Authority.

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.

3. Planning History

18/01513/FUL	Proposed three bedroom bungalow.	Current
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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

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

HG3 Residential Development Within Defined Settlements

HG9 Private Amenity Space

HG13 Backland Residential Development

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

COM6 Provision of Recreational Open Space for New Residential Development

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP1 Housing Supply

LP3 Housing Density and Standards

LP4 Housing Layout

LP8 Backland Residential Development

PPL4 Biodiversity and Geodiversity

HP5 Open Space, Sports and Recreational Facilities

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) 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 relates to 15 Fernwood Avenue, Holland on Sea, a single storey dwelling located within the development boundary of Clacton-on-Sea. The rear garden of 15 Fernwood Avenue, is a long narrow strip which runs between the rear gardens of properties fronting Hereford Road and The Chase. The surrounding area is characterised by a mixture of single and two storey detached and semi-detached dwellings addressing the highway in a linear arrangement.

Description of Proposal

The application seeks planning permission for the erection of a three bed bungalow to the rear of number 15 Fernwood Avenue. The dwelling will be set back from the highway with parking and a turning area.

Assessment

The main considerations are;

- Principle of development
- Backland Residential Development
- Trees and Landscaping
- Highway Considerations and Parking Provision
- Ecology and Biodiversity
- Legal Obligation – Open Space
- Habitat Regulations Assessment
- Representations

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.

Backland Residential Development

'Backland' forms of development can undermine the established character of an area, particularly if that character predominantly comprises linear street fronting development as is the case here. Allowing such development, especially if similar schemes were to be repeated elsewhere in a locality, will undermine the character of the area and set an undesirable precedent. Development behind an established building line can also appear incongruous, forming an inappropriate tandem and cramped form of development. To avoid such problems, backland development requires careful consideration, including the need for an appropriate means of access to 'backland' plot, which is in a form which is safe and convenient for both drivers and pedestrians.

Paragraph 127 of the Framework requires that development should respond to local character and history, and reflect the identity of local surroundings and materials and adds that it is proper to seek to promote or reinforce local distinctiveness. Saved Policy HG13 of the adopted 2007 Local Plan and emerging Policy LP8 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 are of particular relevance in this instance due to the nature of the development constituting backland development. Saved Policy HG13 states that proposals for the

residential development of backland sites must comply with certain criteria (echoed in emerging Policy LP8) which is set out and addressed below:

- 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;

The plot is located within the Settlement Development Boundary of Clacton on Sea and is not safeguarded or allocated for any use other than residential.

- 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;

- Off-street Parking

To accord with the Council's adopted parking standards new dwellings of 3+ bedrooms would need to be served by 2 parking spaces and the donor dwelling served by 2 also. Each space is required to be 2.9m x 5.5m in size.

Parking provision has been allocated to the front of the donor dwelling and the proposed dwelling which complies with Essex Parking Standards.

- Private Amenity Space

To accord with Saved Policy HG9 of the adopted Tendring District Local Plan 2007 the following minimum garden sizes would be required;

- 1 bedroom = 50 square metres
- 2 bedroom = 75 square metres
- 3 or more bedrooms = 100 square metres

The garden area retained for the donor dwelling is in excess of 75 square metres required by policy. As the proposed dwelling serves 3 bedrooms, 100 square metres is required. The proposed dwelling is in excess of 100 square metres and therefore the proposal complies with Policy HG9.

- Impact on Residential Amenities

Saved Policy QL11 of the Tendring District Local Plan (2007) states that new development will be permitted if, amongst other things, the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

The proposed dwelling is sited approximately 1 metre away from the neighbouring boundary to north and south of the application site. The development of one dwelling in this location, regardless of its single storey scale and form, would appear as a cramped built addition which would be visually intrusive and lead to a degree of overshadowing to the private amenities enjoyed by number 67 and 69 The Chase and number 76 and 78 Hereford Road.

The application site will be served by a long narrow shared access drive that would be detrimental to the character and appearance of the locality and wholly out of character with the pattern of development in the area.

- iii. a safe and convenient means of vehicular and pedestrian access/egress can be provided without 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;

The development will be served by a long narrow shared access drive that would be detrimental to the character and appearance of the locality and wholly out of character with the pattern of development in the area.

- iv. the proposal does not involve "tandem" development using a shared access;

The development would constitute tandem development that could set a harmful precedent for other similar forms of development in the vicinity.

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;

This criterion is not considered relevant to this case as it would not open up a more comprehensive form of development.

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

The site is located within the built up area surrounded by existing dwellings and would not create a hard urban edge. However, the development is considered to be out of character in its setting which is characterised by linear, road frontage development.

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 character of Fernwood Avenue is road frontage, linear development with an established front building line. The proposed development would represent an unacceptable form of backland development being wholly out of character with the area setting a harmful precedent for other cramped inappropriate plot sub-divisions to the rear of other properties within the street and surrounding area.

Trees and Landscaping

A tree survey and protection plan has been provided as part of this application. The information provided by the applicant is sufficient to demonstrate that the development could be implemented without causing harm to the retained trees.

There appears to be little opportunity for new soft landscaping to enhance the appearance of the development.

Highway Considerations and Parking Provision

Essex County Highways have been consulted on this application and do not raise any objections subject to conditions relating to no unbound materials, the width of the vehicular access, no discharge of water onto the highway, dimensions of vehicular parking spaces, off street parking, cycle parking, Residential Travel Information Pack and storage of building materials on site.

In terms of parking spaces, the plans demonstrate that two parking spaces can be accommodated to serve the proposed dwelling in line with Essex Parking Standards requirements for spaces of 5.5 metres by 2.9 metres. The proposed development would also ensure that the existing 'donor' dwelling would continue to be served by sufficient off-street parking provision.

Ecology and Biodiversity

Paragraph 174 of the National Planning Policy Framework 2019 requires Local Planning Authorities to protect and enhance biodiversity and geodiversity. Paragraph 99 of Circular 06/2005 states that "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision" it goes on to state "The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances". Paragraph 5.3 of government document 'Planning for Biodiversity and Geological Conservation: A Guide to Good Practice', states that "In the development control process, the onus falls on the applicant to provide enough information to enable the Local Planning Authority to assess the

impacts on biodiversity and geological conservation. Planning applications must be supported by adequate information".

Saved Policies EN6 'Biodiversity' and EN6a 'Protected Species' of the adopted Tendring District Local Plan 2007 state that development proposals will not be granted planning permission unless existing local biodiversity and protected species are protected. These sentiments are carried forward within draft Policy PLA4 'Nature Conservation and Geo-Diversity' of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

A Preliminary Ecological Appraisal was submitted in support of this application and did not identify any protected species on the site. It sets out recommendations for the clearing of the site and also for ecological enhancements that the applicant could incorporate in the detailed scheme. This could be addressed by condition.

Legal Obligation - Open Space

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 '17.68 hectares of equipped play/open space in Clacton-on-Sea. Any additional development in Holland/Clacton will increase demand on play facilities further.

The nearest play areas to the application site are located at Hereford Road, Holland on Sea. The area is designated as a Local Equipped Area for Play and provides equipment for children of all ages. This play area already covers a large part of Holland on Sea and it is felt that any further development in this area will impact on the current facilities. Therefore, any contribution will be spent on improving the play area at Hereford Road.

Habitat Regulations Assessment

Following recent Natural England advice and the introduction of Zones of Influences (Zoi) around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation), within these 'zones' Natural England are now 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 RAMS strategy. 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.

Representations

The site is located within the non parished area of Clacton on Sea.

6 letters of objection (2 from the same address) have been received raising the following concerns:

1. Impact on security, overlooking and loss of privacy to existing surrounding properties;
2. The land is a back garden of a property surrounded by residential gardens on all sides.
3. Access to the new property will be via a very narrow driveway, not suitable for emergency services;
4. Concerns with the height of the dwelling;
5. Proposal is oversized for the plot;
6. Impact of parking spaces on neighbouring amenities;

7. Tree survey and protection plan - majority of ground been cleared;
8. No need for a bungalow to be built in a back garden;
9. Concerns over pollution of cars to neighbouring gardens;
10. Noise pollution during the build out and once inhabited;
11. View of the building from neighbouring dwelling;
12. Visual impact after removal of tree.

Conclusion

It is considered that for the above reasons the proposal fails to meet the criteria set out in the National Planning Policy Framework and relevant national and local planning policies due to the backland nature of the development resulting in material harm to the character of the area. Accordingly the application is recommended for refusal.

6. Recommendation

Refuse

7. Reasons for Refusal

- 1 Paragraph 127 of the National Planning Policy Framework (NPPF) requires that development should respond to local character and history, and reflect the identity of local surroundings and materials. Paragraph 192 adds that it is proper to seek to promote or reinforce local distinctiveness. Saved Policy HG13 of the adopted 2007 Local Plan and emerging Policy LP8 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 are of particular relevance in this instance due to the nature of the development constituting backland development. Saved Policy HG13 states that proposals for the residential development of backland sites will only be approved where it meets specific criteria.

The main character of Fernwood Avenue is road frontage linear development. The proposed development would represent an unacceptable form of backland development being wholly out of character with the area setting a harmful precedent for a cramped and inappropriate form of tandem plot sub-division.

The proposed dwelling is sited approximately 1 metre away from the neighbouring boundary to the north and south of the application site. The development of one dwelling in this location, regardless of the single storey scale and form, would result in a bulky addition which would appear cramped and would result in visual intrusion and overshadowing to surrounding properties with a resultant loss to the private amenities enjoyed by these existing properties; particularly nos. 67 and 69 The Chase and nos. 76 and 78 Hereford Road.

The application site will be served by a long narrow shared access drive that would be detrimental to the character and appearance of the locality and wholly out of character with the pattern of development in the area.

For these reasons, the proposal is considered contrary to Saved Policy HG13 criterion ii, iii, vi and vii and the aims of the NPPF.

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.

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