

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	29/07/19
Planning Development Manager authorisation:	AN	29/7/19
Admin checks / despatch completed	GR	30/7/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	RW	30/7/19

Application: 18/01965/FUL **Town / Parish:** Clacton Non Parished

Applicant: Miss Linda Barber

Address: 5 Singer Avenue Jaywick Clacton On Sea

Development: Change of use of land for siting of mobile home for holiday occupancy.

1. Town / Parish Council

Clacton is non parished.

2. Consultation Responses

Environment Agency
(Amended)

No objection to this planning application, providing that you have taken into account the flood risk considerations which are your responsibility. We have highlighted these in the flood risk section below.

Flood Risk

Our maps show the site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for a holiday use, mobile home. Provided the mobile home is to be used for short term holiday use, the vulnerability classification of the development is considered as 'More Vulnerable'. However if the mobile home is used all year round for residential use they would then be classed as 'Highly vulnerable' development and should not be permitted in Flood Zone 3 and the Exception Test is required in Flood Zone 2. If users of the development function as residents rather than holiday makers, in the event of a flood, they may have no other place of residence available and could lose all of their possessions. You should consider the flood zone 'compatibility' in accordance with Table 3 of the PPG. If you are satisfied that the application passes these Tests and will be safe for its lifetime, we would recommend a condition that the proposed mobile home shall remain for holiday use only is appended to any permission granted. 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 4.95 m AOD which is above the present-day 0.5% (1 in 200) annual probability flood level. 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. At the end of the development lifetime with climate change applied to the design 0.5% annual probability flood event, if the SMP policy is not followed then through overtopping of the current defences the resulting on-site flood level would be up to 5.5m AOD.

If you feel you do not have enough information concerning flood risk to make an informed decision then a GPS verified topographic survey should be undertaken, in order to determine possible flood depths.

Residual Risk

Our 2018 Coastal Breach modelling shows that in a breach scenario the site could experience flood depths of over 2 metres during the 0.5% (1 in 200) annual probability including climate change breach flood event and over 2 metres during the 0.1% (1 in 1000) annual probability including climate change breach flood event. You may wish to ask the applicant to provide a breach assessment for the development site in their FRA so that you can make a more informed decision on flood risk.

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. A Flood Evacuation Plan has been proposed. The safety of the occupants of the holiday mobile home is reliant on an emergency flood plan that deals with matters of evacuation. In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise you to formally consider the emergency planning and rescue implications when making your decisions.

Shoreline Management Plan The current defences protect this community 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 SMP policy is aspirational rather than definitive, so whether the defences are raised or reconstructed in the future will be dependent on the availability of funding. The level of funding that we can allocate towards flood defence improvements is currently evaluated through cost benefit analysis, and any identified shortfalls in scheme funding requirements would require partnership funding contributions from other organisations. 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.

Flood Warning Advice

We recommend that the occupants or owners of the units are registered with our free Flood Warning service, Floodline Warnings Direct, and expect the site owner to have suitable emergency plans in place to safely evacuate the occupants on the direction of police and local authorities. We endeavour to issue tidal flood warnings 10 to 12 hours in advance of the problem tide and it would be safer and more

3. Planning History

18/01965/FUL	Proposed mobile home.	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

QL3 Minimising and Managing Flood Risk

QL6 Urban Regeneration Areas

QL9 Design of New Development

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

CL16 Planning Controls in Jaywick

ER16 Tourism and Leisure Use

ER20 Occupancy Timescales

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

SPL3 Sustainable Design

PP8 Tourism

PPL1 Development and Flood Risk

PPL4 Biodiversity and Geodiversity

PP10 Camping and Touring Caravan Sites

PP14 Priority Areas for Regeneration

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.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site relates to 5 Singer Avenue, Jaywick. The site is located within the Settlement Development Boundary as defined by the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). The site is within National Flood Zone 3a and within the Jaywick Urban Regeneration Area.

The application site is located within a residential area surrounded by single storey chalet dwellings. This application is for retrospective planning permission as the mobile home is already on site.

Proposal

This application seeks planning permission for change of use of the land for the sitting of a mobile home. Following flood risk objections, the application has been amended for holiday occupancy only, as confirmed in an email exchange on 17th May 2019.

The proposed mobile home measures 4 metres in width, 11.8 metres in depth with an overall height of 3.5 metres.

Assessment

The main considerations for this application are the following:

- o Principle of development;
- o Flood Risk
- o Design and Appearance
- o Residential Amenity;
- o Highway Safety
- o Financial Contribution – RAM's

o Other Considerations

1. Principle of development

The Brooklands, Grasslands and Village areas of Jaywick are defined as an urban regeneration area in Policy QL6 of the adopted Local Plan and a Priority Area for Regeneration in Policy PP14 of the emerging Local Plan. Such areas will be a focus for investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety and accessibility. The policy supports proposals for development that are consistent with achieving these regeneration aims.

This part of Jaywick is one of the most deprived areas in the country with many of the existing properties originally built as holiday homes. Most properties are substandard by modern day expectations and are within the high risk flood zone. The regeneration of Jaywick is one of the Council's top long-term objectives and the Council has been leading a multi-agency project to explore and deliver improvements in the area to better the quality of life for residents and secure a long-term sustainable future for the community. Part of the strategy for regenerating Jaywick is to actively encourage the redevelopment of the poorest and most vulnerable dwellings in the area and to introduce a new benchmark for built design that addresses flood risk concerns, improves the quality of accommodation, maximises the enjoyment of Jaywick's assets (particularly the beach) and inspires property owners and developers to redevelop and remodel other parts of the area.

The adverse impact is not outweighed by the objectives of Policy QL6 of the Tendring District Local Plan 2007 and Policy PP14 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Policy QL6 of the Tendring District Local Plan 2007 identifies the site as an Urban Regeneration Area and states that 'permission will be granted for development that reinforces and/or enhances the function, character and appearance of the area and contributes towards regeneration and renewal'. Policy PP14 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) which identified the area as a Priority Area for Regeneration states that 'these areas will be a focus for investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure'.

Saved Policy CL16 of the Tendring District Local Plan 2007 sets out specific planning controls for Jaywick. The policy states that:

Permission will not be granted in this area for the following types of development:-

- (i) the stationing of caravans except on an authorised caravan site;
- (ii) industrial or other inappropriate uses in predominantly residential areas;
- (iii) retail sales from residential properties or the use of land for retail sales; or
- (iv) the sale of goods from commercial properties unrelated to the normal business being carried out in the premises.

The proposed mobile home is contrary to Policy CL16 (i) as the application seeks retrospective planning permission for the stationing of a mobile home within a residential area. As stated within the preamble of Policy CL16, it is the policy of the Council to resist certain types of development to which the Jaywick area has proved to be vulnerable in the past. These include the stationing of caravans on vacant plots. Such activities are clearly out of character and contrary to the managed regeneration of residential accommodation in Jaywick. The principle of development is therefore not considered acceptable and it will undermine the regeneration of Jaywick.

2. Flood Risk

The site and a large area of this part of Jaywick falls within Flood Zone 3a which is the highest area of risk due to its low-lying position on the coast. The NPPF, as supported by policy QL3 in the adopted Local Plan and policy PPL1 in the emerging Local Plan, requires a 'sequential approach' to the location of new development. The aim of the Sequential Test is to steer new development to

areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. There are clearly many locations of lower risk where a mobile home could be located. However, in Jaywick an exceptional approach is justified where new development can assist in the regeneration of the area and help to reduce the risk of flooding to life and property overall.

The NPPF and Local Plan policies refer to the 'Exception Test' which must apply if a development in a higher risk area is being considered having undertaken the sequential test. Paragraph 103 of the NPPF requires such developments to be informed by site-specific flood risk assessment and to demonstrate that:

- Within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
- Development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.

The Environment Agency (EA) were consulted on the original application for residential occupation and on 12th December 2018 raised a holding objection on flood risk grounds as a Flood Risk Assessment (FRA) had not been submitted. A flood risk assessment was received and the Environment Agency were re-consulted. The Environment Agency on 25th February objected to the application in principle because the proposed development falls into a flood risk vulnerability category that is inappropriate to flood zone 3a. The applicant provided details that the site would be used for holiday use only on 17th May and the Environment Agency removed their objection providing that the flood risk considerations are taken into consideration.

The conclusions and recommendations in the Environment Agency's assessment are summarised as follows:

- o The proposal is for a holiday use, mobile home. Provided the mobile home is to be used for short term holiday use, the vulnerability classification of the development is considered as 'More Vulnerable'. However if the mobile home is used all year round for residential use this would then be classed as 'Highly vulnerable' development and should not be permitted in Flood Zone 3 and the Exception Test is required in Flood Zone 2. If users of the development function as residents rather than holiday makers, in the event of a flood, they may have no other place of residence available and could lose all of their possessions.
- o The site is currently protected by flood defences with an effective crest level of 4.95 m AOD which is above the present-day 0.5% (1 in 200) annual probability flood level. Therefore the site is not at risk of flooding in the present-day 0.5% (1 in 200) annual probability flood event. The defences will continue to offer protection over the lifetime of the development, provided that the hold the line Shoreline Management Plan (SMP) policy is followed and the defences are raised in line with climate change, which is dependent on future funding.
- o At the end of the development lifetime with climate change applied to the design 0.5% annual probability flood event, if the SMP policy is not followed then through overtopping of the current defences the resulting on-site flood level would be up to 5.5m AOD.
- o EA 2018 Coastal Breach modelling shows that in a breach scenario the site could experience flood depths of over 2 metres during the 0.5% (1 in 200) annual probability including climate change breach flood event and over 2 metres during the 0.1% (1 in 1000) annual probability including climate change breach flood event. You may wish to ask the applicant to provide a breach assessment for the development site in their FRA so that you can make a more informed decision on flood risk. 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.

- o A Flood Evacuation Plan has been proposed. The safety of the occupants of the holiday mobile home is reliant on an emergency flood plan that deals with matters of evacuation.
- o The current defences protect this community 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.
- o EA recommend that the occupants or owners of the units are registered with our free Flood Warning service, Floodline Warnings Direct, and expect the site owner to have suitable emergency plans in place to safely evacuate the occupants on the direction of police and local authorities. We endeavour to issue tidal flood warnings 10 to 12 hours in advance of the problem tide and it would be safer and more efficient to plan to evacuate the site on receipt of a severe flood warning.

The implementation of the evacuation plan can be secured through planning condition. The EA state overall, it is considered that the development will meet with the NPPF Exceptions Test if this condition is imposed. It is therefore considered that an objection on flood risk grounds could not be sustained, subject to conditions to restrict occupation to short term holiday lets in accordance with Policy ER20 of the Saved Plan and Policy PP10 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). The occupancy will be restricted to the period of 1 March to 31 October as the site is located in an area of flood risk and subject to approval of a Flood Evacuation Plan.

3. 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).

The mobile home is set back from the highway of Singer Avenue by approximately 3 metres. The proposal is single storey in nature which is in keeping with the surrounding single storey chalet dwellings. Although the mobile home is considered to be large in comparison with the surrounding chalets, the building is of a size and scale that is not dissimilar to the surrounding dwellings.

4. Residential Amenity

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). Given the compact character of the area, the level of privacy and overlooking between properties and from the public domain is already compromised.

There are no windows on the rear elevation of the mobile home; therefore there will be no impact upon privacy on the neighbouring dwellings along Rover Avenue. There are windows and doors proposed on the eastern, northern and southern elevations which are visible to number 3 and number 7 Singer Avenue, however there is fencing along the boundary which helps to screen the mobile home from the neighbouring dwellings. Due to the single storey nature of the proposal and the distance to the neighbouring dwellings, it is considered that the mobile home will not cause any significant impact in terms of privacy, loss of light, outlook and overlooking onto neighbouring amenities.

5. Highway Safety

Policy QL10 in the adopted Local Plan and Policy CP1 in the emerging Local Plan seek to ensure that developments maximise the opportunities for access to sustainable transport including

walking, cycling and public transport. Located in the heart of Jaywick near to a bus route and public footpath, Officers are content that this is a sustainable location for development in transport and accessibility terms.

Essex County Highways have been consulted on this application and have stated that the authority 'observes that this is a retrospective application and that the proposal fails to meet the requirements of the current parking standards, however, it is also observed that with careful manoeuvring a single car could parallel park across the sites frontage almost entirely clear of the carriageway. This means of parking is not ideal but in this case, is unlikely to adversely affect other highway users or cause significant conditions of danger, obstruction or congestion and therefore does not object to the proposals as submitted'.

The plan provided demonstrates that one parking space is achievable to the front of the application site to serve the mobile home. Although the mobile home comprises of two bedrooms, it is considered that due to the sustainable location of the application site, one parking space is considered to be acceptable for the proposed holiday occupation.

6. Financial Contribution – RAMS

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. Given the scale of development for one unit of tourist accommodation it is not considered likely to result in significant impacts on statutory designated nature conservation sites or landscapes and a RAMS contribution is not therefore requested.

7. Other Considerations

Clacton is non parished.

5 letters of support (2 from the same address) have been received stating the following:

- o Development has beautified the road
- o Site was previously overgrown and then used as a dumping ground. Residents impressed with the improvements and the static mobile home and associated fences certainly smarten up the area.
- o If a demand is made to remove the current dwelling, the construction of a flood-proof building will stick out considerably as the remainder of the dwellings in the locality are 1930s bungalows with one or two exceptions.
- o Turned a run-down 'tip' into a beautiful mobile home.
- o In keeping with the appearance of the street.
- o Has off street parking which avoids congestion on the street.
- o Any large construction would look totally out of place as the majority of the properties on this street are single storey buildings and compliment the home placed upon this site.

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

- o Singer Avenue is predominately bungalows and we feel that the siting of this mobile home is not in keeping with the character of the area.
- o The mobile home being placed for habitual use does not in our opinion comply with the new flood risk guidelines for Jaywick.

All comments raised above have been addressed within the report above.

8. Recommendation

Refusal - Full

9. Conditions / Reasons for Refusal

- 1 The development is considered contrary to the objectives of Policies QL6 and CL16 of the Tendring District Local Plan 2007 and Policy PP14 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Policy QL6 of the Tendring District Local Plan 2007 identifies the site as an Urban Regeneration Area and states that 'permission will be granted for development that reinforces and/or enhances the function, character and appearance of the area and contributes towards regeneration and renewal'. Policy PP14 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) identifies the area as a Priority Area for Regeneration states that 'these areas will be a focus for investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure'.

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10. 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.

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