

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	27 th Aug
Planning Development Manager authorisation:	GS	28/8/19
Admin checks / despatch completed	ER	28/8/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	MAO	28/08/19

Application: 19/00995/FUL **Town / Parish:** Clacton Non Parished

Applicant: CL Developments

Address: 84 Spenser Way Jaywick Clacton On Sea

Development: Proposed 1 bedroom bungalow.

1. Town / Parish Council

None received

2. Consultation Responses

ECC Highways Dept The Highway Authority observes that the applicant's response to Question 8 in the application form is incorrect and misleading and the response to Question 9 is also incorrect. It is also observed that there is an over provision to the off street parking facilities.

UU Open Spaces There is currently a deficit of 41.08 hectares of play in the Clacton/Holland area. Although there is a deficit of play and open space in Clacton/Holland. It is not felt that this development would have a significant impact on the current deficit. Therefore no contribution is being sort from Public Realm on this occasion.

Building Control and
Access Officer No comments at this stage.

3. Planning History

91/01214/FUL	Rear extension.	Approved	11.11.1991
19/00995/FUL	Proposed 1 bedroom bungalow.	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL6 Urban Regeneration Areas

- QL9 Design of New Development
- QL10 Designing New Development to Meet Functional Needs
- QL11 Environmental Impacts and Compatibility of Uses
- HG1 Housing Provision
- HG9 Private Amenity Space
- HG14 Side Isolation
- TR1A Development Affecting Highways
- TR7 Vehicle Parking at New Development
- EN1 Landscape Character
- EN6 Biodiversity

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

- SP1 Presumption in Favour of Sustainable Development
- SPL3 Sustainable Design
- LP1 Housing Supply
- LP3 Housing Density and Standards
- PPL4 Biodiversity and Geodiversity

Local Planning Guidance

Essex Design Guide

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 (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 is located within the settlement boundary of Jaywick located on the south side of Spenser Road. The plot currently comprises a detached single-storey bungalow, separated from the adjacent neighbour at No. 82 by a detached outbuilding which has the appearance of a domestic garage. The plot is around 14.2m wide (the widest in the south-streetscene) and 43.5m deep where its width tapers to 11.4m. The garage is approximately 2.6m from the right hand flank of No. 84 and adjacent the boundary with No. 82. Behind the garage the boundary comprises dense overgrown foliage and a timber fence under 1.8m high. The existing plot has an area in the region of 566m²; save for Nos. 82, 100 and 102 all the other properties on this south side of the road have plot areas of similar sizes in the general region of 400-570m².

Proposal

The application proposes demolishing the outbuilding, subdividing the site and constructing a detached one-bedroom single-storey dwelling. The subdivided site would result in the existing dwelling having a plot width in the region of 7.7m wide, 35m deep and an area approximately 270m².

The new dwelling would have an L-shaped plot, having secured the southerly part of No. 84's rear garden. The plot would have a width between 6.4m down to 4.9m for the first 35m – increasing to 12m for the remaining 8.3m with an area approximately 293m².

The new dwelling would be 4m wide and 16m deep, have a ridge at 5.75m and eaves of 3.1m. The roof would be dual-pitched with hipped roof ends finished in an interlocking concrete tile, walls would be finished externally with rendered walls above a facing-brickwork plinth and fenestration would have white uPVC frames. Internally the dwelling would contain a bedroom, a bathroom, a kitchen and a living space.

Principle of Development

In respect of the sustainability credentials of the proposed dwelling it would generate economic activity during its construction and subsequently would meet the economic dimension. In terms of the social dimension, there is a primary school, 300m walk to bus stops (offering a regular service to Clacton); the closest shop is a newspaper shop approximately 698m away. The site is therefore considered to be socially sustainable.

Matters therefore turn to the detailed aspects of the development, including its merits against the environmental strand of sustainability which includes the impact upon the character of the area, trees and heritage assets.

Impact upon Character/Design

The Government attach great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design.

Saved Policies QL9, QL10 and QL11 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Emerging Policy SP1 reflects these considerations.

Both the new plot and the existing newly subdivided plot would be the narrowest plots, by at least 2m, than any other dwelling in the locale. Further, whilst the separation distances between the dwelling and the east boundary are 1.95m at the front of the property, due to the angled boundary this distance reduces to 0.9m at the rear wall.

The narrowest dwellings in the locale is 6.6m wide and widths typically vary to over 10m wide. Properties either side of the proposal have widths of 7.1m and 6.6m and also sit within much wider plots. The 4m width of the new dwelling is at odds with the typical widths of other dwellings in the area;

Most dwellings in the vicinity have eaves in the region of 2.4m; it does appear as though the eaves have been raised in an attempt to reduce the cramped appearance. However the proportion of wall height beneath the eaves as a ratio to the height of the roof has resulted in a property which appears tall and narrow. This sense is worsened at the rear by way of having glazing which almost complete occupies the full height of the rear elevation. The dwelling itself is therefore poorly designed.

Policy HG14 - Side Isolation Proposals for detached, semi-detached and end terraced dwellings, including extensions to these dwellings over 4 metres in height, will be required to retain appropriate open space between the dwelling and the side boundaries of the plot. This is to ensure that new development is appropriate in its setting and does not create a cramped appearance whilst also safeguarding the amenities and aspect of adjoining residents. There are certainly some examples where existing dwellings are within 1m of one of their boundaries; however not only are the plots wider in the first instance but there is also a much greater degree of separation to the opposite boundary. Eaves to eaves separation distances are approximately 1.9m to No. 84 and 0.7m to No. 82.

Overall it is considered that the proposed dwelling and the resultant subdivided plot(s) are at complete odds with the typical dwelling and plot scale in the vicinity, exacerbating the sense that the proposed dwelling has been shoehorned into a space which is unsuitable for a detached dwelling.

Residential Amenities

The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, 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).

Flank to flank distances between No. 82 and the dwelling, sited to the east would be around 1.3m. The windows that would be most affected by the development serve a secondary bedroom and a dining area which has a secondary-source of natural daylight. The underside of the proposed side-facing windows have a cill-height around 2m. Overall it is considered that the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties

Highways

Essex County Council Highways have no objections subject to the following;

- the proposed vehicular access for the donor dwelling shall be constructed at right angles to the highway boundary and to a width of 5.5 metres which shall be a continuous extension of the existing vehicular access to No. 84 Spenser Way, constructed at right angles to the highway boundary and provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority
- No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.
- All off street car parking shall be provided in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.
- Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Legal Obligation

The Council's Public Open Space team have confirmed that a contribution towards local play enhancements is not required in this instance.

Habitat Regulations Assessment

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation.

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. 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.

A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to 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.

6. Recommendation

Refusal - Full

7. Conditions / Reasons for Refusal

- 1 The National Planning Policy Framework 2012 attaches great importance to the design of the built environment and confirms good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

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 emerging Local Plan Publication Draft 2017.

Subdivision of the existing single plot would result in two new plots which would be significantly narrower than most other plots in the locale; the new dwelling would have proportions (raised eaves, footprint) which are entirely at odds with all other dwellings in the area; separation distances at eaves level between the donor dwelling and the neighbour at No. 82 are a little over 0.5m. Overall the proposal represents poor design, a cramped form of development and would harm the character of the streetscene.

- 2 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. 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.

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8. Informatives

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?		NO
Are there any third parties to be informed of the decision?		NO