

## DELEGATED DECISION OFFICER REPORT

| AUTHORISATION                               | INITIALS | DATE     |
|---|----------|----------|
| File completed and officer recommendation:  | MP       | 04/09/19 |
| Planning Development Manager authorisation: | AN       | 5/9/19   |
| Admin checks / despatch completed           | me       | 06/09/19 |

**Application:** 19/00440/OUT

**Town / Parish:** Little Clacton Parish Council

**Applicant:** Stanfords

**Address:** Land adjacent 44 Elm Road Little Clacton Essex

**Development:** Erection of five dwellings.

### 1. Town / Parish Council

Little Clacton Parish  
Council

The site adjoins a site already having obtained planning permission for a large development. The development of this site will add to the urban impact in that area. We are not confident that habitat will not be affected as it is close to the Millennium Green, an area which has been developed to be sensitive to natural habitat and is attracting numerous species due to the relative quietness and proximity to the open countryside. As a village we have had a disproportionate number of new dwellings and there is no need to approve any unnecessary new builds within the Parish, but to maintain any green gaps to ensure the rural nature of the village and local wildlife habitat can survive under the immense strain to which it is already being subjected to. The application has been refused in the past (01/02088/OUT) and the reasoning has not changed as the adopted Plan 2007 and the upcoming Local Plan which is in an advanced stage so does give weight with the added item that the site lies on a fluvial floodplain as identified by the Environmental Agency in the previous application (01/02088/OUT) and with the additional planning approved over the years of sites within the village location makes it of greater significance. Little Clacton Parish Council Strongly Recommend Refusal.

### 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 mitigation and conditions:

1. Prior to first occupation of each dwelling, the vehicle access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4metres by 43 metres in both directions as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the road / access and those in the existing public highway in the interest of highway safety in accordance with policy DM1.



2. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

3. Prior to first occupation of each dwelling the vehicular 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 less than 3 metres or 6 metres maximum and shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1

4. 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.

5. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

6. Each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8

7. 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: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.



Grade II listed Swains farmhouse is located in the wider environs of the site.

I have no objection to this proposal. Should this application be permitted I recommend a condition is attached pertaining to landscaping to ensure adequate screening is provide so the views to the rear of the farmhouse are not adversely impacted. Conditions should also be attached pertaining to the architectural detailing for the same reason.

### **3. Planning History**

|              |                         |         |            |
|--------------|-------------------------|---------|------------|
| 01/02088/OUT | Residential development | Refused | 07.01.2002 |
|--------------|-------------------------|---------|------------|

### **4. Relevant Policies / Government Guidance**

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

COM6 Provision of Recreational Open Space for New Residential Development

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG9 Private Amenity Space

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

CP1 Sustainable Transport and Accessibility

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout



PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL3 Sustainable Design

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

### **Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (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**

### Site Description

The application site is land measuring 0.28 hectares that is sited adjacent to the east of 44 Elm Road, within the parish of Little Clacton. The site is laid to grass, with a low hedge marking the southern boundary adjacent to the highway. Adjacent to the west and south are residential dwellings of varying scale, height and design. Approximately 50 metres to the north-east is Swains Farmhouse, a Grade II Listed Building. Further out to all sides the character of the area takes on a more rural feel, with large areas of grassed and agricultural land.

The site falls outside of a recognised Settlement Development Boundary, as agreed in both the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

### Description of Proposal

This application seeks outline planning permission with all matters reserved for the erection of five dwellings. The indicative layout shows two pairs of semi-detached dwellings and one detached dwelling.

### Assessment

#### **1. Principle of Development**

The application site lies outside of a Settlement Development Boundary as defined within the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.

The National Planning Policy Framework 2019 (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 report, 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.



Whilst it is recognised that there would be conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site being sited outside the settlement development boundary, as stated above, in the context of the 5 year housing land supply paragraph 11 d) of the NPPF requires applications for housing development to be assessed on their merits, whether sites are allocated for development in the Local Plan or not and it is important to consider whether any circumstances outweigh this conflict.

Therefore, at this present time, it is correct to assess the housing development on its merits against the sustainable development objectives set out within Paragraph 8 of the NPPF. The economic objective, a social objective and an environmental objective are therefore assessed below.

#### Economic:

It is considered that the proposal for five dwellings would contribute economically to the area, for example by providing employment during the construction of the development and from future occupants using the nearby facilities, and so meets the economic arm of sustainable development.

#### Social:

In respect of the social dimension, the nearest settlement is Little Clacton, which lies adjacent to the application site within the Emerging Local Plan. Within the Established Settlement Hierarchy (2016), Little Clacton performs well, with a primary school, defined village centre, defined employment area and a good bus route. It is further noted there are good footpath and street lighting connecting the application site with the main hub of the Little Clacton settlement. Given the above it is considered the site meets the social strand of sustainability.

#### Environmental:

Environmentally, it is necessary to consider the impact on the character and appearance of the countryside. The site is located in a semi-rural area, and there are examples of residential development within the immediate vicinity, particularly adjacent to the west. The proposed layout shows the dwellings to be sited in a linear fashion that is in-keeping with the established building lines. Further, soft landscaping to the northern and eastern boundaries could be secured to soften the development. Given this, it is not considered the proposal would result in a strong physical change to the landscape and therefore meets the environmental strand of sustainability.

## 2. Design, Layout and Appearance

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The application is in outline form with all matters reserved and therefore detailed plans do not form part of the determination of this application, and as such no elevational drawings have been submitted. Design within any future application should look to be in-keeping and not detrimental to the character of the surrounding area. That notwithstanding, the submitted plans do include an indicative layout that shows the five dwellings to be semi-detached or detached and all being accessed from Elm Road to the south. As stated above, the indicative layout is one the Council is supportive of as it helps to build the existing pattern of development to this section of Clacton Road.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of one bedroom should be a minimum of 50 square metres, for a dwelling of two bedrooms should be a minimum of 75 square metres and for a dwelling of three bedrooms or more should be a minimum of 100 square metres. The information that has been supplied does not indicate the



number of bedrooms; although there is sufficient space within the site to ensure there will be enough private amenity space for all of the proposed dwellings.

### 3. Residential Amenities

Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

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

### 4. Highway Considerations

Essex County Council as the Highway Authority has been consulted on the application and has stated that they have no objections subject to conditions relating to visibility splays, the use of no unbound materials, no discharge of surface water, the width of the private drive, and that any boundary planting should be planted a minimum of 1 metre from the highway. However, as this application is outline with all matters reserved these will not be attached as conditions to this decision.

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

### 5. Tree and Landscaping Impacts

The application site is set to rough grass with a small stream marking the north eastern boundary. There is a low hedge on the southern boundary of the application site adjacent to Elm Road. Within the hedge there are two established trees, a small Hawthorn and a small Holly. Both trees are directly beneath overhead power cables and are not viable in the long term as they will need to be regularly reduced in height to maintain safe a clearance distance from the overhead cables.

There are larger trees on, or close to, the northern boundary of the application site, although these are not threatened by the development proposal because of the separation distance between the trees and the proposed positions of the dwellings. There are no trees or other significant vegetation in the main body of the land

Details of new soft landscaping should be provided within any future reserved matters application, to ensure that an adequate level of new planting is carried out to soften and enhance the appearance of the development. It would be desirable to retain sections of the existing hedge on the boundary with Elm Road. If this is not possible then replacement hedge planting should take place and new trees be planted in the front gardens of the new dwellings.

### 6. Legal Obligations

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

There is currently a deficit of 2.22 hectares of equipped play in Little Clacton. There is one play area in the village which is located along London Road and is a designated LEAP. The Parish Playing Field also has open space and is used for all sports. The Parish Council have plans to increase the provision of play by installing a Multi Games Unit at the Parish Playing Field.



Given the significant lack of play facilities in the area, a contribution towards play is justified and relevant to the planning application, with the contribution to be used towards creating additional facilities at the Parish Playing Fields.

A completed unilateral undertaking has been provided to secure this legal obligation and to ensure compliance with saved policy COM6.

## **7. Habitats Regulation Assessment**

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

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

### Other Considerations

Little Clacton Parish Council have objected to the application, raising the following concerns:

1. Development of the site will add to the urban impact of the area;
2. Harm to habitat; and
3. Site lies in a flood plain;

In answer to this point 1 has been addressed within the main body of the report. With regards to point 2, the site is clear and laid to grass. It would therefore not be reasonable to request a Phase 1 Habitat Survey. In answer to point 3, the site is not located within either Flood Zone 2 or 3 and it would therefore be unreasonable to object on those grounds

There has been one letter of objection received, raising the following concerns:

1. Highway impacts;
2. Potential harm to wildlife;
3. Flooding concerns; and
4. Harm to local infrastructure.

In answer to this, point 1 has been addressed within the main body of the report. With regards to point 2, the site is clear and laid to grass. It would therefore not be reasonable to request a Phase 1 Habitat Survey. In answer to point 3, the site is not located within either Flood Zone 2 or 3 and it would therefore be unreasonable to object on those grounds. While point 4 is acknowledged, five dwellings will not in itself result in significant impacts to local infrastructure.

## **6. Recommendation**

Approval.

## **7. Conditions**



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

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

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

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

- 3 Details of the access, appearance, landscaping, layout and scale (hereinafter called 'the reserved matters') shall be submitted to and approved, in writing, by the Local Planning Authority before any development begins and the development shall be carried out as approved.

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

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans, drawing number 158 01, and document titled 'Planning Statement' dated March 2019.

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

## **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.

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

### **Legal Agreement Informative - Recreational Impact Mitigation:**

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

### **Legal Agreement Informative - Open Space/Play Space Contribution:**

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Public Open Space financial contribution in accordance with Policy COM6 of the adopted Tendring District Local Plan (2007) and Policy HP5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.