

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	9 th Jan 2020
Planning Development Manager authorisation:	AN	13/1/20
Admin checks / despatch completed	CC	13/1/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	SB	13/01/2020

Application: 19/01199/OUT **Town / Parish:** Clacton Non Parished
Applicant: Mr Sorrell
Address: 109 Aylesbury Drive Holland On Sea Clacton On Sea
Development: Proposed one detached bungalow.

1. Town / Parish Council

Not applicable

2. Consultation Responses

Environment Agency

We have reviewed the application as submitted and are raising a holding objection to this application on flood risk grounds. We have detailed our objection and provided information to the applicant showing how they can overcome this in our response.

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 the construction of a detached bungalow, which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance (PPG).

Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA). We have reviewed the submitted flood risk assessment (FRA), prepared by Stanfords, unreferenced and dated August 2019 and consider it does not comply with the requirements set out in the Planning Practice Guidance, Flood Risk and Coastal Change, Reference ID: 7-030-20140306.

It does not, therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

The dwelling proposed is single storey and would therefore not provide refuge above the flood level for site users. The emergency flood plan for the site advises that residents should remain within their homes, which are located above the extreme flood level. This could be misleading to homeowners as the dwelling would be expected to flood in the residual risk event (breach scenario).

The applicant can overcome our objection by submitting an FRA that covers the deficiencies highlighted above and demonstrates that the development will be safe will not increase risk elsewhere. If this cannot be achieved we are likely to maintain our objection to the

application. Production of an FRA will not in itself result in the removal of an objection.

UU Open Spaces

There is currently a deficit of -17.68 hectares of equipped play/open space in Clacton-on-Sea/Holland

Any additional development in Holland/Clacton will increase demand on play facilities further.

The nearest play area to the application site is 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.

Any contribution would be used to extend the play area at Hereford Road

Building Control and
Access Officer

Insufficient information to comment.

ECC Highways Dept

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions in regards to surface treatments, the provision of car parking and turning areas, siting of the garage door and details of the provision for the storage of bicycles:

ECC SuDS Consultee

As we have been consulted on a minor application, we are assuming that there is a potential flood risk on site, therefore we are considering the impact of increased run off rates. The cumulative impacts of minor developments can increase flood risk in an area.

Current processes for assessing major applications cannot be applied in the same way to minor applications as reduced orifice sizing to meet the greenfield 1 in 1 rate can increase the risk of blockages and therefore flood risk.

The required storage volume and run off for the site can be calculated using the UK SUDS website.

Having reviewed the application we wish to issue a holding objection based upon the following:

- No drainage information has been submitted therefore there may be an increased risk of flooding associated with the site
- Small sites should minimise the areas of hardstanding, where hard surfaces are necessary unlined permeable paving should be used.
- Infiltration testing/ground investigation to assess the viability of using infiltration on site- there should be some ground testing for geology and then the worst case rates for that soil type should be used
- If the site is directing water to a single point of infiltration then we would need to see infiltration testing for that location. However if the water is being distributed evenly across the site as the rain lands on the ground then we do not require infiltration testing as it is mimicking natural processes.
- Discharge rates should be limited to the greenfield 1 in 1 year rate or 1l/s, whichever is greater
- Where it is not possible to meet the greenfield 1 in 1 rate,

rainwater re-use should be used to reduce the run off rate from the site, it should be demonstrated why this is not feasible if it is not proposed

- All areas of the site should receive sufficient water treatment and above ground features are preferable
- There is no drainage plan. A site layout, location of features, outfall location, conveyance should be included
- Exceedance flows should be considered to ensure potential off-site flooding is managed

5. **Planning History**

05/00601/FUL	Detached bungalow and garage	Refused
19/01199/OUT	Proposed one detached bungalow.	Current

6. **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

QL11 Environmental Impacts and Compatibility of Uses

QL3 Minimising and Managing Flood Risk

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG9 Private Amenity Space

COM6 Provision of Recreational Open Space for New Residential Development

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

PPL1 Development and Flood Risk

HP5 Open Space, Sports & Recreation Facilities

PPL4 Biodiversity and Geodiversity

LP1 Housing Supply

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.

7. Officer Appraisal (including Site Description and Proposal)

Site Description

Aylesbury Drive is relatively urbanised, comprising low scale single-storey bungalows facing on to an area of public open space; the estate was developed in the 1960's. Although dwellings are typically pairs of semi-detached there are a number of detached dwellings

The application site is an irregular but roughly triangular shape to the right hand side of No. 109 Aylesbury Drive and measures approximately 0.05hectares. This land extends alongside the boundary of No.109, with an extensive hedgerow and line of coniferous trees overhanging the amenity area; at the side of the bungalow is a detached garage. The site is mainly overgrown with bushes and several conifers, none of the conifers are worthy of preservations. Land to the rear is open and extends to the north to form Holland marshes.

Description of Proposal

This application seeks outline planning permission for the erection of a single residential dwelling. All matters are reserved for consideration under a future detailed application.

Site History

Planning permission for a single storey bungalow was refused in May 2005 on the grounds that it would be a contributory factor in the increased risk of flooding at this site and the surrounding area and because the site was then outside the defined Housing Settlement Limits of the established towns and villages.

Assessment

1. Principle of Development

The site is located within the Development Boundary therefore there is no principle objection to the proposal, subject to the detailed considerations discussed below.

2. Design, Layout and Appearance

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.

The application is in outline form and as such detailed drawings have not been provided. Notwithstanding this, supporting documentation makes a strong suggestion that the dwelling would be one detached bungalow within the side garden area in an arrangement consistent with the character of Aylesbury Drive. Providing that the orientation of the dwelling is such that its principal elevation faces south and its footprint has a siting that has regards to the slightly staggered relationship other dwellings have with each other; it is considered that a new single-storey bungalow in this location would be acceptable.

The proposed access, which is a consideration of this application, would be sited at the existing hammerhead of the cul-de-sac. Whilst it will be publically visible from the street scene, there are numerous similar examples nearby, and it will therefore not result in any visual detriment.

4. Impact to Neighbours and 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).

As this application reserves all matters for later consideration there is no indicative site layout, as such a detailed consideration in regards to the effect of the development on the privacy, daylight or other amenities of occupiers of nearby properties is not possible. The site location plan indicates that there is ample space within the plot to site a dwelling that does not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling with one bedroom should be a minimum of 50 square metres, for a dwelling with two bedrooms a minimum of 75 square metres, and for a dwelling with three bedrooms or more should be a minimum of 100 square metres. No details are available in regards to either the numbers of bedrooms at No. 109 Aylesbury Road or the proposed dwelling. Following the sub-division of the plot, the private amenity space available for No. 109 would be approximately 83sqm – this is sufficient only if the property has 2-bedrooms. The donor plot would be much larger and it is likely that, subject to the actual siting of the dwelling, an amenity space which complied with the policy could be achievable.

5. Flood Risk

The site lies within Flood Zone 3, this land is assessed as having a 1 in 100 or greater annual probability of river flooding (>1%), or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any year. These flood zones refer to the probability of river and sea flooding, ignoring the presence of defences. Paragraph 100 of the NPPF states inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Local Plans should be supported by Strategic Flood Risk Assessment and develop policies to manage flood risk from all sources, taking account of advice from the Environment Agency and other relevant flood risk management bodies, such as lead local flood authorities and internal drainage boards. Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by:

- applying the Sequential Test;
- if necessary, applying the Exception Test;
- safeguarding land from development that is required for current and future flood management;
- using opportunities offered by new development to reduce the causes and impacts of flooding; and
- where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to facilitate the relocation of development, including housing, to more sustainable locations.

Paragraph 101 of the NPPF further states that 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. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding.

These sentiments are echoed in draft policy PPL1 of the emerging Local Plan, which states that all development proposals will be considered against the National Planning Policy Framework's flood risk 'sequential test' to direct development toward sites at the lowest risk of flooding unless they involve development on land specifically allocated for development in this plan or land within a Priority Area for Regeneration (the application site is not located in such an area). For development

proposals on sites within Settlement Development Boundaries, the sequential approach will apply to all land within the Settlement Development Boundary of the settlement in question.

Saved Policy QL3 also supports this approach by stating that 'development should be located to avoid danger to people and property from flood risk now and for the lifetime of the development. For this purpose, development will not be permitted where sites of lesser flood risk are available to meet development need'.

The Environment Agency (EA) acknowledge that 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 the construction of a detached bungalow, which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance (PPG). Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment.

The applicant, within the submitted Planning Statement / Flood Risk Assessment suggests that there are clearly many locations of lower risk where the development could be located. However, in this instance it is considered that an exceptional approach is justified given that the site has been included within the latest adopted Plan and the current shortfall in housing land supply.

The site is within the Settlement Development Boundary defined for Clacton on Sea in both the current Tendring Local Plan (LP) and its emerging replacement (emerging LP). LP Policy HG3 and emerging LP Policy SPL2 direct residential development to within defined settlement boundaries, subject to this meeting specific planning criteria. Whilst the proposal might meet these criteria, the principle of a dwelling being permissible in this location still depends on meeting the policy tests applicable in areas at high risk of flooding.

The National Planning Policy Framework (the Framework) is a material consideration that carries significant weight. Paragraphs 155 to 165 address planning and flood risk. The supporting Planning Practice Guidance (PPG) provides more detailed advice and underlines the general planning approach to development and flood risk. This refers to the Framework setting strict tests to protect people and property from flooding, which all local planning authorities are expected to follow. Where these tests are not met, national policy is clear that new development should not be allowed.

This national policy approach directs development that is inappropriate on flood risk grounds away from areas with the highest risk of flooding by applying a Sequential Test. That approach is designed to ensure that areas at little or no risk of flooding are developed in preference to areas at higher risk, the aim being to keep development out of medium and high flood risk areas (Flood Zones 2 and 3). Development should not be permitted where there are reasonably available sites, appropriate for the proposal, in lower flood risk areas.

Furthermore, in this instance, the Council acknowledges further sites with extant planning permission for similar housing development, for example within Walton-on-the-Naze, at 75 Clays Road, (18/00682/FUL - 1 dwelling), 2 North Street, (18/00306/FUL - 1 dwelling) and 21 Saville Street, (17/01625/FUL - 1 dwelling). Further, at land adjacent 28 Ashlyns Road, Frinton-on-Sea (18/00428/FUL - 1 dwelling), Gladwyn House, Kirby Cross (18/00197/OUT - 1 dwelling) and Cherry Trees, Kirby-le-Soken (18/00036/FUL - 1 dwelling).

It is considered that having assessed the information submitted, officers have identified other sites in the surrounding area which could contain the development in a lower flood zone. The Council therefore does not agree that the sequential test requirement has been satisfied. The allocations in the emerging Local Plan, intelligence gathered in updating the SHLAA and knowledge of extant planning permissions indicates that there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding that are therefore considered sequentially preferable to the application site.

It is therefore considered that the proposal has failed the Sequential Test. The proposed residential development is therefore considered to be unacceptable and contrary to the advice contained in the NPPF, policy PPL1 of the emerging Local Plan, and policy QL3 of the 2007 Local Plan.

6. Highways

The plans show the red-outline passing within very close proximity of the façade of the donor dwelling – in theory removing all of their parking provision. In order to overcome parking as a potential reason for refusal, the curtilage of the proposed dwelling would need amending to 'return' the parking provision back to No. 109. Both the donor dwelling and the proposed dwelling would need to provide two off-street parking spaces. Parking standards require that each parallel parked bay is 5.5m x 2.9m; it is likely that this space could be achieved, subject to amending the extent of the proposed curtilage and this does not therefore form a reason for refusal.

7. Legal Obligation

No contribution is requested in regards to Public Realm on this occasion.

8. 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.

8. Conditions / Reasons for Refusal

- 1 Paragraph 100 of the National Planning Policy Framework states inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by (inter alia) applying the Sequential Test.

Paragraph 101 of the NPPF further states that 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, and a sequential approach should be used in areas known to be at risk from any form of flooding.

These sentiments are echoed in draft policy PPL1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft, which states that all development proposals will be considered against the National Planning Policy Framework's flood risk 'sequential test' to direct development toward sites at the lowest risk of flooding unless they involve development on land specifically allocated for development.

Saved Policy QL3 of the Adopted Tendring District Local Plan 2007 also supports this approach by stating that the Council will ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, whilst for all proposed sites within Flood Zones 2 and 3, the sequential test must be applied to demonstrate that there are no reasonably available sites in a lower flood risk area.

The site lies within tidal Flood Zone 3a, which is defined as having a high probability of flooding, is classified as a more vulnerable development and the sequential test therefore must be passed.

Having assessed the information submitted, officers have identified other sites in the surrounding area which could contain the development in a lower flood risk zone. The Council therefore does not agree that the sequential test requirement has been satisfied. The allocations in the emerging Local Plan, intelligence gathered in updating the SHLAA and knowledge of extant planning permissions indicates that there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding that are therefore considered sequentially preferable to the application site.

It is therefore considered that the proposal has failed the Sequential Test and the benefits of the development do not therefore outweigh the risks of flooding. The proposed residential development is therefore considered to be unacceptable and contrary to the advice contained in the NPPF, policy PPL1 of the emerging Local Plan, and Saved policy QL3 of the 2007 Adopted Local Plan."

9. Informatives

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