

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	ML	06/01/2020
Planning Development Manager authorisation:	TF	20/01/2020
Admin checks / despatch completed	CC	10/02/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	AP	10/2/2020

Application: 19/01719/FUL **Town / Parish:** Clacton Non Parished

Applicant: Mr Thompson

Address: Land at 82 Jaywick Lane Clacton On Sea

Development: Removal of condition 05 (number of units) of planning permission 17/01154/FUL.

1. Town / Parish Council

Clacton – No Town
Council

2. Consultation Responses

n/a

3. Planning History

16/01520/FUL	Erection of 21 bungalows and 48 supported living apartments, together with associated access, surface water drainage and other associated development.	Approved	11.05.2017
17/01154/FUL	Variation of condition 2 of 16/01520/FUL to replace the following drawings PA-20, PA-21, PA-22, PA-23, PA-24, PA-25 and PA-26A with PA-20A, PA-21A, PA-22A, PA-23A, PA-24A, PA-25A and PA-26B.	Approved	21.09.2017
17/01159/DISCON	Discharge of condition 25 (Construction Management Statement) of approved planning application 16/01520/FUL.	Approved	26.10.2017
17/01369/DISCON	Discharge of conditions 6 (acoustic screen walls) and 7 (archaeological ground works) of planning permission 16/01520/FUL.	Approved	04.10.2017
19/00958/DISCON	Discharge of conditions 8 (Foul Water Drainage) and 18 (Surface Water Drainage) of planning	Approved	11.10.2019

permission 16/01520/FUL.

19/01719/FUL Removal of condition 05 (number of units) of planning permission 17/01154/FUL. 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

QL2 Promoting Transport Choice

QL3 Minimising and Managing Flood Risk

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

COM2 Community Safety

COM5 Residential Institutional Uses

COM6 Provision of Recreational Open Space for New Residential Development

COM21 Light Pollution

COM23 General Pollution

COM26 Contributions to Education Provision

COM29 Utilities

COM31A Sewerage and Sewage Disposal

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species

EN6B Habitat Creation

EN13 Sustainable Drainage Systems

EN29 Archaeology

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG3A Mixed Communities

- HG6 Dwelling Size and Type
- HG7 Residential Densities
- HG9 Private Amenity Space
- TR1A Development Affecting Highways
- TR3A Provision for Walking
- TR4 Safeguarding and Improving Public Rights of Way
- TR5 Provision for Cycling
- TR6 Provision for Public Transport Use
- 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
- SP5 Infrastructure & Connectivity
- SP6 Place Shaping Principles
- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP1 Improving Health and Wellbeing
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP5 Affordable and Council Housing
- LP10 Care, Independent Assisted Living
- PP12 Improving Education and Skills
- PPL1 Development and Flood Risk
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL7 Archaeology

CP1 Sustainable Transport and Accessibility

CP3 Improving the Telecommunications Network

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The site lies immediately to the west of Jaywick Lane with access provided immediately to the north of number 86 Jaywick Lane. The site has planning permission for 21 bungalows and 48 supported living units to the rear. More recently a 100 bed care home has been approved on the site to the rear.

The site is located outside the settlement development boundary in the saved Tendring District Local Plan (2007) but wholly within the boundary in the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) in an area known as the Rouses Farm Development Site, a designated mixed-use residential-led development where planning permission is currently pending for 950 new homes.

Jaywick Lane is characterised by primarily residential development in a mix of styles although mainly bungalows in the locality of the site. A caravan park is located to the north of the site. The landscape beyond the site is open and gently sloping north to south.

Proposal

This s73 application seeks the removal of condition 5 of planning permission of 17/01154/FUL, which states;

No more than 15 of the bungalows hereby approved shall be constructed and occupied prior to the construction and completion of the supported living units.

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

The applicants wish to remove this condition as the supported living units are now not being constructed following the approval of a care home on the site.

Appraisal

Removal of the Condition

The removal of the condition does not affect the quantum or layout of the approved development and due to the approval of an elderly care home in lieu of the supported living units the condition is now not relevant or required.

The bungalows are nearing completion so the removal of this condition is required to enable the occupation of the total 21 units.

Government Guidance states where an application under s73 is granted, the effect is the issue of a fresh grant of permission, a decision notice describing the new permission should be issued, setting out all the conditions pertaining to it. As a result, a new decision notice is issued for the entire development. The new decision notice will not be the same as the one previously issued as the development has been commenced and details to discharge some of the conditions have already been submitted and approved.

There was no section 106 agreement secured when the original application was approved. As works to the bungalows are nearing completion it would be unreasonable to require any legal obligations at this stage.

Other Considerations

No letters of representation have been received.

6. Recommendation

Approval

7. Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: PA-01, PA-10, PA-20A, PA-21A, PA-22A, PA-23A, PA-24A, PA-25A, PA-26B, PA-26A, PA-27, PA-30, PA-31, PA-32, PA-40, PA-41, PA-42, 853/01, 853/02, 853/03, 3219-PA-LOC, 3219-PA-LOC-OS+TOPO, IT1508/FRA/02 REV B and IT1508/FRA/03 REV B.

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

- 2 Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A, B and C of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the approved bungalows, including dormer windows or alterations to the roof, shall be erected or carried out except in accordance with drawings showing the siting and design of such enlargement, improvement or other alteration which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of visual and neighbour amenity.

- 3 The supported living apartments hereby permitted shall be occupied only by individuals requiring supported living, education and care. The apartments shall not be occupied for any other purpose including any other purpose in Class C3 or C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that class in any Statutory instrument revoking and re-enacting that Order with or without modification), including as a secure hospital or secure care facility, without the express permission of the Local Planning Authority.

Reason - To ensure that the accommodation is retained for the purpose of providing accommodation for those in need of supported living and to enable the Local Planning Authority to retain control over future occupation.

- 4 The acoustic fencing/walls shall be constructed in accordance with the details shown on plan references PC11 and PC12 (approved as part of planning reference - 17/01369/DISCON).

The approved acoustic fencing or walls shall be provided the length of the site boundaries of Nos 80 and 86 Jaywick Lane which adjoin the proposed highway leading from Jaywick Lane. The approved acoustic screen walls and fences shall be erected prior to any dwelling being first occupied and thereafter be retained in the approved form.

Reason - To protect existing residential amenity.

- 5 Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by the site maximum to the north and south. 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 access and those in the existing public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011

- 6 Prior to occupation of the development the vehicular parking and turning facilities, as shown on the submitted plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason - To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 7 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 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 8 Prior to occupation of the development 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 5.5 metres shall include a 2m wide footway on both sides, and shall be retained at that width within the site and shall be provided with an appropriate junction onto Jaywick Lane

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 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 9 The carriageways of the proposed estate roads shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that roads. The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surfacing within twelve months (or three months in the case of a shared surface road or a mews) from the occupation of such dwelling.

Reason - To ensure roads/footways are constructed to an appropriate standard in the interests of highway safety in accordance with Policy DM7 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

NOTE: The Highway Authority understands that the footway on the southern side of the access will be subject to a short 'pinch point' where the width of the footway will reduce to 1.6m. The footway will return to the full 2m width as soon as is practicable.

- 10 Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Reason - To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

- 11 Any single garages should have a minimum internal measurement of 7m x 3m.
Any double garages should have a minimum internal measurement of 7m x 6m.
Any tandem garages should have minimum internal measurements of 12m x 3m.
All garages shall be retained for the purposes of vehicle parking in perpetuity.

Reason - To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

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

Reason - In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

- 13 The approved surface water drainage scheme shall be implemented and maintained in accordance with the following documents approved under planning reference 19/00958/DISCON;

- IT1508_HD_007_2 Rev E
- IT1508_HD_007_1 Rev E
- Intermodal Letter dated - 16th September 2019
- IT1508-HD-006-2-REV A
- Micro Drainage Details/Graphs for Pipe 2.001 US/MH S4 (Surface Network 2)
- Micro Drainage Details for House Soakaway - Summary of Results for 30 year Return Period (+40%)
- Micro Drainage Details for STORM SEWER DESIGN by the Modified Rational Method
- Micro Drainage Details for Supported Living Buildings - Summary of Results for 100 year Return Period (+40%)
- Micro Drainage Details for Western Infiltration Device - Summary of Results for 100 year Return Period (+40%)
- IT1508/HD/008

The scheme shall subsequently be implemented prior to occupation.

Reason -

To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

To ensure the effective operation of SuDS features over the lifetime of the development.

To provide mitigation of any environmental harm which may be caused to the local water environment

Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

- 14 The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

Reason - To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

- 15 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are

removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details

Reason - In the interests of visual amenity and the character of the area.

- 16 Construction works shall not take place outside 07:00 hours to 19:00 hours Mondays to Fridays and 07:00 hours to 13:00 hours on Saturdays nor at any time on Sundays or Bank Holidays.

Reason - In the interests of the amenities of the occupants of neighbouring property.

- 17 The Construction Method Statement approved under planning reference 17/01159/DISCON shall be adhered to throughout the construction period.

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 18 The hereby permitted development shall not be occupied until a fibre optic broadband connection installed on an open access basis and directly accessed from the nearest British Telecom exchange, incorporating the use of resistant tubing, has been installed at the site, in accordance with details that shall be submitted and approved, in writing, by the Local Planning Authority.

If the applicant is unable to achieve this standard of connection, and can evidence through consultation with British Telecom, that this would not be possible, practical or economically viable an alternative super fast (i.e. will provide speeds greater than 24mbps) wireless service will be considered acceptable.

Reason - To ensure the development is able to be equipped with high speed broadband to enable opportunities for web-based communication and homeworking.

- 19 No lighting shall be installed on the site until a full lighting strategy has been submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details.

Reason - In the interests of amenity to reduce the impact of night time illumination on the character of the area.

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.

<p>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</p>	<p>YES</p>	<p>NO</p>
<p>Are there any third parties to be informed of the decision? If so, please specify:</p>	<p>YES</p>	<p>NO</p>