

3. Planning History

92/00067/FUL	(Baytrees, Botany Road, Off Harwich Road, Little Clacton) Erection of stable to house one horse for family use only	Approved	31.03.1992
14/01858/OUT	Two detached dwellings with associated garaging and parking.	Refused	06.02.2015
16/00193/DETAIL	Reserved matters for plot one of the residential development of 0.09ha of land to create two detached dwellings with associated garaging and parking.	Approved	25.04.2016
20/00245/FUL	Proposed development of single, detached 1.5 storey dwelling with 4 bedrooms.	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

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG9 Private Amenity Space

LP1 Housing Supply

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
- HP5 Open Space, Sports & Recreation Facilities
- 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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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). 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, whilst housing delivery over the last three years has exceeded requirements, the supply of deliverable housing sites going forward that the Council can demonstrate still 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 & Relevant Planning History

In 2014 an outline application for two dwellings was submitted with all matters reserved for consideration under a subsequent submission. The application was allowed on appeal in 2015; thereby establishing the principle of the development.

In 2016 a Reserved Matters application was submitted; notwithstanding this the details of the development (which included siting, scale, design, landscaping and access) were for plot one only. This property has been constructed and is occupied. No subsequent applications ever followed for the reserved matters pertaining to the second dwelling.

A Reserved Matters application must be submitted within three years of the approval of the outline scheme; the date the appeal was allowed was 20th November 2015 – meaning that the reserved matters application should have been submitted by 20th November 2018. As this was not undertaken the only option available to the developer was to submit a full planning application for a standalone dwelling; the site forms the vacant plot which was going to be the second dwelling.

Description of Proposal

The application proposes the construction of a detached, 4-bedroom chalet bungalow. The plot is approximately 28m deep and 14m wide (reducing to 9.9m at the rear boundary); it has an area a little over 300sqm and is of a quadrangle shape, orientated with a north-east facing rear garden.

The main dwelling would have a ridge height around 7.2m with eaves at 3.6m and its floorplan is a reversed 'L' shape. The proposal includes a small covered porch and two off-street parking spaces within the curtilage of the site.

Assessment

The main planning considerations are:

- Principle of Development;
- Layout, Scale and Appearance;
- Neighbouring Amenities;
- Highway Considerations;
- Biodiversity;
- Financial Contributions - RAMS;
- Financial Contributions - COM6;
- Representations; and,
- Other Considerations.

1. Principle of Development:

The site lies outside of any Settlement Development Boundary as defined within both the adopted Tendring District 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.

- Assessment of Sustainable Development

While the NPPF advocates a plan-led approach, it is important to consider whether any circumstances outweigh the conflict. Development should be plan led unless material considerations indicate otherwise and it is accepted that the site is not in a preferred location for growth.

In line with Paragraph 8 of the National Planning Policy Framework (2018), achieving sustainable development means meeting an economic objective, a social objective and an environmental objective. These are assessed below.

- economic;
- social, and;
- environmental roles.

The sustainability of the application site is therefore of particular importance. In assessing sustainability, it is not necessary for the applicant to show why the proposed development could not be located within the development boundary.

- Economic

It is considered that the proposal would contribute economically to the area, for example by providing employment during the construction of the properties and from future occupants utilising local services, and so meets the economic arm of sustainable development.

- Social

Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations therefore being in line with the aims of the aforementioned paragraph 17 of the NPPF. This is the emerging policy equivalent to Saved

Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan.

In allowing the appeal at Baytrees, the adjacent dwelling, the Inspector concluded that the site has an urban fringe character and is readily distinguishable from the open countryside to the north and west. Although the site does not directly adjoin the established residential development on Harwich Road, the intervening land is enclosed and accommodates built development. Moreover, planning permission has been implemented for application ref 14/01181/OUT for a dwelling on that land. In effect therefore, the proposed development would be contiguous with the emerging pattern of development in the area.

Little Clacton is categorised in emerging Policy SPL1 as a 'Rural Service Centre' and, for these settlements, the Local Plan identifies opportunities for smaller-scale growth.

The site is served by the No. 3 bus routes which typically provides a bi-hourly service to Clacton and local shops/amenities are within an 800m walk to the south-west.

The site is therefore considered to perform reasonably well under the socially sustainable strand and it would be unreasonable to refuse planning permission on this basis.

- Environmental

The environmental role is about contributing to protecting and enhancing the natural and built environment which is considered below under the heading Layout, Scale and Impact.

2. Layout, Scale 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 scale (height and footprint) entirely accords with the existing adjacent dwelling Baytree and the two new dwellings approved in 2017 under planning reference 17/01863/FUL (155 Harwich Road); all of which are chalet-bungalows. The width and depth of the dwelling sits comfortably within the plot; however the submission is lacking in details relating to soft landscaping and the heights of boundary treatments; appropriately-worded conditions can ensure that the development continues to make a positive contribution to the local environment.

Externally the dwelling would be finished in a light-grey coloured weatherboarding over a red brickwork plinth and have a red-based clay tiled roof and these materials are considered acceptable within this location.

3. Amenities of Existing & Future Occupiers:

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).

Baytrees to the left has no first floor side facing windows and a dual-pitched detached garage with a ridge in the region of 4.6m is sited adjacent the boundary with Baytree House. There is a side facing dormer window proposed in the north-west flank of the proposed dwelling. In regards to the private amenity space of Baytrees, this window is around 10m away with the garage as an intervening feature. The siting and height of the garage is such that it provides a high degree of screening to their private amenity space. In regards to daylight, separation distances and the scale (height etc) are such that the dwelling would not have a damaging impact on the daylight or other amenities of the occupier of this neighbouring property.

Different dwelling sizes and types provide accommodation for individuals and families with a wide range of expectations and need for private amenity space. "Private amenity space" comprises a private outdoor sitting area not overlooked by adjacent or opposite living rooms or outdoor sitting areas. It will therefore not necessarily always amount to the entire rear garden. Apart from its private recreation function, private amenity space is also important in achieving well laid out development.

Private amenity space shall be provided to new dwellings in accordance with the following standards:- a three or more bedroom house - a minimum of 100 square metres. In accordance with the policy requiring the area to not be overlooked by adjacent or opposite living rooms or outdoor sitting areas, the proposed dwelling would have more than sufficient private amenity space available. Overall the proposal is considered to secure a good standard of amenity for future occupants of the proposed dwelling.

4. Highways

Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The Council's current Parking Standards require that for dwellings with 4 bedrooms a minimum of 2 parking spaces be provided per unit. The preferred bay size for cars is 5.5 metres by 2.9 metres and the minimum bay size is 5 metres by 2.5 metres; the parking provision can easily be achieved forward of the building line.

5. Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

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. The contribution is secured by unilateral undertaking.

The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zoi) being approximately 4,322metres from Hamford Water Special Protection Area. Since the development is for 1 dwelling only, the number of additional recreational visitors would be limited and the likely effects on Hamford Water from the proposed development alone may not be significant. However, new housing development within the Zoi would be likely to increase the number of recreational visitors to Hamford Water; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A unilateral undertaking has been prepared to secure this legal obligation. This will ensure 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.

6. Public Open Space

Paragraph 54 of the National Planning Policy Framework (2019) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

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". These sentiments are carried forward within emerging Policy HP5.

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 plus the Parish Playing Field has open space and used for all sports. The Parish Council have plans to increase the provision of play.

Due to the significant lack of play facilities in the area, a contribution towards play is justified and relevant to the planning application. The contribution would be used towards improving facilities at the Parish Playing Fields.

7. Representations

One letter has been received which is summarised as:-

<p>why this property has been started and a planning application been submitted without me receiving a letter from your department especially as my property is situated next door to this plot of land?</p>	<p>Work on the site began in November 2019, it was incorrectly assumed by the Developer that the Reserved Matters application 16/00193/DETAIL included details of Plot 2; once it was ascertained by them that it didn't, the application for Full planning permission was submitted. The Planning Authority met its duty to publicise the planning application by displaying a site notice.</p>
<p>The property is not in line with what I would have expected to be the building line along the lane next to my property.</p>	<p>Noted</p>
<p>I believe that the house is coming too close to my boundary, which may because it is too large for the plot.</p>	<p>The siting of the dwelling does not run parallel with the boundary; separation distances to the boundary therefore range between 2.3m and 1.5m with the rear gable being 4.8m away.</p>
<p>Unfortunately, the applicant has dug the whole site out right up to my boundary which has now destabilised my existing fence.</p>	<p>This is a civil matter.</p>
<p>Foul Sewerage is not clarified on the application.</p>	<p>The drainage is a matter for consideration by Building Control matter.</p>

There are no dimensions on the plans.	The plans are scaled at 1:100.
I note from the plans that there is a dormer window on the north elevation on the side of the house from the master bedroom which overlooks the back of my house. This room has dual aspect windows and I therefore do not see a necessity for there to be a window invading my privacy.	See section on Amenities of Existing & Future Occupiers above.

No comments have been made by the Parish Council.

Conclusion

For the reasons set out above, the proposal is considered to represent a sustainable form of development in a location supported by national and local plan policy that will not result in any material environmental or residential harm that warrants refusal of planning permission.

6. Recommendation

Approval - Full

7. Conditions / Reasons for Approval

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:- P01, P02 and P03, received 17th February 2020.

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

- 3 No further above ground works shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 - Trees in relation to design, demolition and construction "

Reason - This is a publicly visible building where an appropriate landscaping scheme is a visually essential requirement.

- 4 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 - To ensure the adequate maintenance of the approved landscaping scheme for a period of five years in the interests of the character of the surrounding area.

- 5 The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been hard surfaced and sealed. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

Reason - To ensure that on street parking of vehicles in the adjoining streets does not occur and to ensure that vehicles can enter and leave the highway in a forward gear in the interests of highway safety.

- 6 Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason - To ensure adequate space for parking off the highway is provided in the interest of highway safety.

- 7 The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason - To ensure appropriate cycle parking is provided in the interest of highway safety.

- 8 Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the carriageway.

Reason - To ensure that appropriate loading / unloading facilities are available to ensure that the highway/carriageway (delete as appropriate) is not obstructed during the construction period in the interest of highway safety.

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.

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.

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 in accordance with saved Policy COM6

On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Steps should be taken to ensure that the Developer provides enough turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

Any work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at: development.management@essexhighways.org or by post to:

SMO1 Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester.
CO4 9YQ.

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