

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	28/05/2020
Planning Development Manager authorisation:	AN	28/05/2020
Admin checks / despatch completed	CC	28/05/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	BB	28/05/2020

Application: 19/01859/FUL **Town / Parish:** Clacton Non Parished

Applicant: Mr Panrucker

Address: 120 Golf Green Road Jaywick Essex

Development: Erection of two dwellings (amendment to condition 02 on planning permission 19/00337/FUL to finalise a minor variation to design of plot 2).

1. Town / Parish Council

Clacton is non parished

2. Consultation Responses

Environment Agency No objection

ECC Highways Dept
16.01.2020

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 the occupation, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of footway and provided with an appropriate dropped kerb crossing of the footway.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests 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 occupation and as per the Essex Parking Standards (Parking Standards: Design and Good Practice, Sept 2009) 6 metres should be provided behind each parking space to allow for manoeuvring.

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.

4. 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.

5. 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 in accordance with Policy DM8.

6. The proposed double garage should have a minimum internal measurement of 7m x 5.5m.

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.

6. 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 and amenity in accordance with Policy DM8.

7. Prior to occupation of the proposed dwelling, 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.

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 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: Steps should be taken to ensure that the Developer provides sufficient 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.

Informative 2: 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."

Informative 3: 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.

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

3. Planning History

19/00337/FUL	Proposed erection of two dwellings.	Approved	09.08.2019
19/01859/FUL	Erection of two dwellings (amendment to condition 02 on planning permission 19/00337/FUL to finalise a minor variation to design of plot 2).	Current	
19/01925/FUL	Proposed erection of one dwelling.	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL3 Minimising and Managing Flood Risk

QL6 Urban Regeneration Areas

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG13 Backland Residential Development

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

CL15a Jaywick Regeneration

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

SP1 Presumption in Favour of Sustainable Development

SP3 Meeting Housing Needs

SP6 Place Shaping Principles

SPL3 Sustainable Design

LP3 Housing Density and Standards

LP4 Housing Layout

LP8 Backland Residential Development

PP14 Priority Areas for Regeneration

PPL1 Development and Flood Risk

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

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, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities ‘Garden Communities’ proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.

The three North Essex Authorities are currently considering the Inspector’s advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. 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 (which applies until such time that the figures in the new Local Plan are adopted).

In addition, the actual need for housing (as set out in the emerging Local Plan) 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, as recently endorsed by the Local Plan Inspector. Therefore, in weighing the benefits of residential development against the harm, the Inspector’s endorsement of the lower housing requirement figure is a strong material consideration which tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing to address the perceived shortfall – given that, against the Local Plan housing requirement there is, in fact, a surplus of supply as opposed to a shortfall.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site is land adjacent to both 118 and 124 Golf Green Road, within Jaywick Sands. The site itself is currently laid to grass and backs on to a golf course to the east. The surrounding area is heavily urbanised with residential development to the north, south and west. The site is situated within the Settlement Development Boundary for Jaywick Sands within both the Saved Tendring Local Plan 2007 and Emerging 2013-2033 Tendring Local Plan Publication Draft. The site also falls within Flood Zones 3a.

Proposal

Erection of two dwellings - amendment to condition 02 on planning permission 19/00337/FUL to finalise a minor variation to design of plot 2 to allow for the following;

- removal of the side elevation window serving the living room
- insertion of side elevation window serving the kitchen
- infill to the ground floor side elevation to the boat store
- increase in width to the rear dormer window and increase in width to the Juliet balcony.

Assessment

1. Principle of development

The site is situated within the defined settlement limits of Jaywick Sands as defined by both the adopted Tendring District Local Plan (2007) and emerging Publication Draft (2017), and therefore the principle of residential development in this location is acceptable subject to the detailed considerations as set out below.

2. Jaywick Regeneration Policies

The Brooklands, Grasslands and Village areas of Jaywick are defined as an urban regeneration area in Policy QL6 of the adopted Local Plan and a Priority Area for Regeneration in Policy PP14 of the emerging Local Plan. Such areas will be a focus for investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety and accessibility. The policy supports proposals for development that are consistent with achieving these regeneration aims.

The regeneration of Jaywick is one of the Council's top long-term objectives and the Council has been leading a multi-agency project to explore and deliver improvements in the area to better the quality of life for residents and secure a long-term sustainable future for the community. Part of the strategy for regenerating Jaywick is to actively encourage the redevelopment of the poorest and most vulnerable properties in the area and to introduce a new benchmark for built design that addresses flood risk concerns, improves the quality of accommodation, maximises the enjoyment of Jaywick's assets (particularly the beach) and inspires property owners and developers to redevelop and remodel other parts of the area.

Saved Policy CL15 sets out specific requirements for development in Jaywick which are:

- i) Any new residential development should take the form of single dwellings on combined plots, the desirable width and depth of resulting plots to be at least 18 metres and 15 metres respectively. The minimum width and depth of resulting plots to be 15 metres and 15 metres respectively;
- ii) Only three storey development that excludes habitable rooms on the ground floor will be allowed;
- iii) Direct road frontage access should be available to each plot;
- iv) A minimum of 5 metres deep rear yard/amenity area shall be provided;
- v) A minimum one metre space between side boundaries and any detached, semi-detached or end terraced dwelling, or a minimum distance of 2 metres between the flank walls of any two such dwellings will be required;
- vi) Any off street car parking should be provided within the ground floor of each dwelling;
- vii) The front building line to be 2 metres from the highway;

- viii) Subsequent extensions to new dwellings will not be allowed if they contain living accommodation on the ground floor in the form of habitable rooms;
- ix) No development will be allowed within four metres of the ditch to the rear of Brooklands and Grasslands to allow for the passage of Maintenance Plant;
- x) Development along the Brooklands Frontage will need to be set back 2 metres to allow for the expansion of the road and minimum 1.2 metre-wide foot path.

However, this 2007 policy aimed at strictly controlling development to facilitate a phased programme of redevelopment has failed to bring about any positive changes in the area. Since the NPPF has given Councils more freedom to apply planning policies to better reflect local circumstances the Council, the Environment Agency and other partners have agreed that lifting some of the planning restrictions and moving towards flexible policies aimed at encouraging developers to provide high-quality, resilient and innovative new homes in the area is a better approach.

3. Flood Risk

The site and a large area of this part of Jaywick falls within Flood Zone 3a, which is the highest area of risk due to its low-lying position on the coast. The NPPF, as supported by policy QL3 in the adopted Local Plan and policy PPL1 in the emerging Local Plan, requires a 'sequential approach' to the location of new development. 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. There are clearly many locations of lower risk where two dwellings could be located. However, in Jaywick an exceptional approach is justified where new development can assist in the regeneration of the area and help to reduce the risk of flooding to life and property overall.

The NPPF and Local Plan policies refer to the 'Exception Test' which must apply if a development in a higher risk area is being considered having undertaken the sequential test. Paragraph 103 of the NPPF requires such developments to be informed by site-specific flood risk assessment and to demonstrate that:

- o Within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
- o Development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.

The application is accompanied by a site-specific flood risk assessment. The Environment Agency confirm that they have no objection as the site is currently defended and the Shoreline Management Plan policy for this area has an aspiration for hold the line.

A Flood Evacuation Plan has been proposed and this is necessary to ensure the safety of the development in the absence of safe access with internal flooding in the event of a breach flood.

The proposal is therefore considered to pass the sequential and exception tests and is acceptable in relation to flood risk.

4. Backland Development

The development involves the construction of two detached dwellings in a 'backland' location to the rear of the established residential frontage along Golf Green Road. With regards to Policy HG13 of the 2007 Local Plan (and echoed in policy LP8 of the draft Local Plan), it states proposals for the residential development of backland sites must comply with the following criteria:

- i. the site lies within a defined settlement development boundary and does not comprise land allocated or safeguarded for purposes other than a residential use;

- ii. where a proposal includes existing private garden land which would not result in less satisfactory access or off-street parking arrangements, an unacceptable reduction in existing private amenity space or any other unreasonable loss of amenity to existing dwellings;
- iii. a safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will be discouraged;
- iv. the proposal does not involve "tandem" development using a shared access;
- v. the site does not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution;
- vi. the site is not on the edge of defined settlements and likely to produce a hard urban edge or other form of development out of character in its particular setting; and
- vii. the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development.

The main problems that can arise as a result of backland development include undermining the established character of an area (especially if similar schemes were to be repeated elsewhere in a locality); dwelling plots appearing cramped relative to their surroundings; the fragmentation of established gardens with a loss of mature landscaping; and the infringement of neighbouring residents' amenities.

Development behind an established building line can also appear incongruous, particularly with isolated dwellings.

There must also be proper means of access to backland development, which is safe and convenient for both drivers and pedestrians, with a turning area where necessary to avoid the need for vehicles to reverse onto a public highway. A proposed access should avoid excessive disturbance or loss of privacy to neighbouring residents through, for example, an access drive passing unreasonably close to an adjoining dwelling. The likely frequency of use by vehicular traffic and the suitability of the access for service vehicles and the emergency services will also be relevant material considerations.

In respect of the policy criteria noted above the development is considered to meet the requirements as follows;

- (i) the site is located within a defined settlement boundary in both the saved and emerging local plans, and is not designated for any particular use;
- (ii) both proposed dwellings will have private garden areas in excess of 75sqm, which will accord with the requirements of saved policy HG9, whilst each dwelling will have sufficient off-street parking provision and the existing access point will remain.
- (iii) the private access would be located to the south-western section of the site. Whilst there will be a slight degree of noise disturbance to occupants of the two adjacent properties (Numbers 118 and 124), the comings and goings associated with two additional dwellings are not considered to be excessive, whilst the proposed access is in-keeping with other similar access points in this location so will result in no visual detriment to the street scene.
- (iv) whilst the layout indicates 'tandem development' with a shared access, it is important to assess if there is any identifiable harm as a result. The preamble of Policy HG13 states that tandem development consists of rows of dwellings immediately behind an existing residential frontage served by shared access ways - it is generally unsatisfactory due to difficulties of access to the dwelling at the rear and the disturbance and lack of privacy suffered by residents at the dwelling in front.

On this occasion, it is acknowledged there are numerous other examples of similar forms of development within the immediate vicinity. There is therefore not considered to be harm to the character of the area as a result, whilst the scheme adheres to all other space and highway design requirements, and will not be harmful to neighbouring

properties. Therefore, on balance, whilst the layout shows tandem development with a shared access, there is not significant enough harm to warrant a refusal reason.

- (v) the site is of a regular shape and would not compromise a more comprehensive development solution.
- (vi) the development of the site would not form a hard urban edge to the settlement as the land is surrounded by residential development to the north, south and west.
- (vii) the development would not set a harmful precedent as the development is not harmful in its own right and each case must be assessed on its own merits. It is noted there the character of the surrounding area sees a number of layouts in a similar form to that being proposed, with Number 126 to the south also being set back into the site. This existing development therefore ensures the construction of two additional dwellings in this location would not adversely impact upon the overall character of the locality.

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 proposed dwellings are to be detached, two storeys and sited to the east of Golf Green Road. The dwellings will be accessed via a newly created access point to the south-west off Golf Green Road. The siting of plot one largely accords with the pattern of development along this section of Golf Green Road. In regards to plot two, as previously mentioned despite it being sited approximately 50m back from the street scene, there are numerous other examples of this type of layout and therefore this will not appear incongruous or detrimental to the areas character.

In terms of the proposed design of the dwellings, there is not a principle objection with the two storey design given that there are other examples of this form of development in the surrounding area. Whilst the design is not concerned to be of exceptional quality, it is acknowledged effort has been made to break up the bulk of the proposal with the inclusion of a front canopy area, dormer windows, Juliet balcony and window detailing. Given this, there is not significant visual harm as a result of the proposed design.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a dwelling of two bedrooms should be a minimum of 75 square metres. The submitted plans show this is comfortably achievable for both new dwellings.

The proposed amendments to the design of the plot 2 following the approval of planning application 19/00337/FUL are considered to be minor amendments that raise no design concerns: the redesigned window on the northeast elevation is smaller and repositioned to provide light into the kitchen; the infilled wall on the ground floor boat store will not cause any impact; and the enlarged dormer and Juliet balcony comprises a limited increase in width and height which is a minor alteration.

6. Impact upon neighbours

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).

The proposed dwellings will be visible to both the adjacent neighbours to the north and south; Numbers 118 and 124 Golf Green Road. As highlighted above, the noise disturbances associated with two new dwellings is not considered to be excessive, while there is also a minimum of 6 metres separation distance. Given this, there is not considered to be significant harm in terms of loss of light or the dwellings appear imposing.

In terms of potential overlooking, both dwellings have been designed to ensure either there are no first floor windows directly facing on to private amenity area or, in the case of plot one, that any windows serve either a landing, en-suite or bathroom. These rooms are not main habitable rooms that would be regularly occupied, thereby significantly reducing overlooking potential.

The proposed amendments to plot 2 involves the re-siting and repositioning of the window to the side elevation. It should be noted at the time of this report another planning application is under consideration for a new dwelling (plot 3) at No. 118 Golf Green Road which is sited adjacent but further forward of Plot 2. The new kitchen window on the side elevation of Plot 2 would not raise privacy concerns given it would look straight onto a blank wall (the side of Plot 3), with no directly opposite windows. The infill to the boat store is to the ground floor and this will not have any impact upon the neighbouring amenities. The increase in width and height to the former window and the increase to the Juliet balcony will be visible to the neighbouring amenities, however views will be away to the rear of the proposed dwelling and therefore it is considered that the proposal will not cause any impact upon neighbouring amenities.

7. Highways

Essex County Council Highways have been consulted as part of the process of this application and have stated they have no objections, subject to a number of conditions relating to the width of the drive, no unbound materials, 6 metres provided behind each parking space, boundary planting 1 m from the highway, parking space measurements, garage measurements, cycle parking, Developer Travel Pack and storage of building materials. The parking measurements will not be imposed as the plans demonstrate that there is sufficient parking to accommodate two parking spaces. The garage measurements will not be imposed, although the proposed garage falls short of the measurements, there is sufficient parking available. The cycle parking condition will not be imposed as given the size of the plot, there is comfortably sufficient areas to accommodate this. Furthermore, a condition stating the developer shall be responsible for the provision and implementation of a Residential Travel Information Pack is also not to be added to this decision given the scheme is a minor application for just two dwellings.

Adopted Car Parking Standards state that for a dwelling of two or more bedrooms, provision should be made for a minimum of two parking spaces measuring 5.5m x 2.9m or a garage, if being used as one of the parking space, should have a minimum internal measurement of 7m x 3m. The submitted plans show that, while the garage dimensions fall just short of the above measurements, there is sufficient space to the front and side of both the dwellings to accommodate the necessary parking requirements.

The amendment to the design of plot 2 under planning permission 19/00337/FUL does not alter the proposed development on parking provision and highway safety.

8. Tree and Landscape Impacts

The main body of the application site is set to grass. There are 6 trees close to the boundary fence adjacent to the highway comprising 4 Mountain Ash and 2 Elder. The Mountain Ash have been reduced to a height of approximately 2.5m and have re-grown well following this work. The Elder have been cut down to 1m and also have re-grown well.

Although the trees make a positive contribution to the appearance of the public none of them meets the criteria under which they merit formal legal protection.

The site layout plan appears to show the retention of two of the Mountain Ash trees or possibly the planting of two new trees. A condition will be imposed to this decision to secure details of soft landscaping - this should be primarily the retention of existing or planting of two new trees at the front of the site close to the boundary with the highway.

There is dense vegetation on land immediately to the west of the application site that will not be threatened by the development proposal.

The amendment to the design of plot 2 does not alter the impact of the proposed development of the existing vegetation on the application site.

9. 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 41.08 hectares of equipped play in Clacton/Holland. The nearest play area is at Crossways, approximately 0.2 miles away; this play area is classified as a Local Area for Play and provides limited provision. Any additional development in the area will increase demand on this facility and a contribution is therefore justified and relevant, with the funds being utilised to update the toddler area at Crossways.

A short unilateral undertaking was provided to apply the unilateral undertaking that was already created under 19/00337/FUL to secure this legal obligation and to ensure compliance with saved policy COM6.

10. Habitat Regulations Assessment

Following Natural England's recent advice and the introduction of Zones of Influences (ZOI) around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation) there is a requirement to request financial contributions to mitigate against any recreational impact from new dwellings for sites falling within the ZOI's.

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 application scheme proposes one dwelling on a site that lies within the Zone of Influence (Zoi) being approximately 2860 metres away from Colne Estuary SPA and Ramsar.

New housing development within the Zoi would be likely to increase the number of recreational visitors to the Colne Estuary 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 short unilateral undertaking was provided to apply the unilateral undertaking that was already created under 19/00337/FUL to secure this legal obligation to mitigate against any recreational impact from the new dwelling and to 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.

Other Considerations

Clacton-on-Sea is non-parished.

There have been no letters of objection.

6. Recommendation

7. Conditions

- 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 and documents;

Drawing number 1858-02

Drawing number 1858-06

Drawing number 1858-05

Flood Management Plan & Flood Evacuation Plan scanned 09 Dec 2019.

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

- 3 Prior to occupation, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of footway and provided with an appropriate dropped kerb crossing of the footway.

Reason - To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

- 4 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.

- 5 Prior to occupation, and as per the Essex Parking Standards, 6 metres should be provided behind each parking space to allow for manoeuvring.

Reason - To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

- 6 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.

- 7 Prior to the commencement of any above ground works, a scheme of hard and soft landscaping works for the site shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme 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 - To enhance the visual impact of the proposed works.

- 8 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 enhance the visual impact of the proposed works.

- 9 On commencement of development the Flood Risk Assessment, Flood Management Plan and Flood Evacuation Plan shall be immediately brought into use and shall remain in force for the duration of the construction and occupation period. The Flood Management Plan and Flood Evacuation Plan shall remain live documents and be updated where required.

Reason - The site lies within Flood Zone 3a at high risk from flooding and a detailed evacuation plan is essential to safeguard future occupiers of the development.

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 short unilateral undertaking in agreement associated with planning permission 19/01859/FUL 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 short unilateral undertaking in agreement associated with planning permission 19/01859/FUL 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.

Building Control

Access for a fire fighting appliance required in accordance with Section B5 from Approved Document B.

Highways

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.

Steps should be taken to ensure that the Developer provides sufficient 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.

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.

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.

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

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