

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	22/09/2020
Planning Development Manager authorisation:	AN	24/09/2020
Admin checks / despatch completed	DB	24/09/20
Technician Final Checks/ Scanned / LC Notified / UU Emails:	BB	24/09/2020

**Application:** 20/00114/FUL **Town / Parish:** Clacton Non Parished

**Applicant:** Mr Thompson

**Address:** Tuctaway Oaktree Drive Clacton On Sea

**Development:** Proposed alterations and extension to create 3 No. supported living apartments.

### 1. Town / Parish Council

Clacton non parished.

### 2. Consultation Responses

ECC Highways Dept  
19.02.2020  
**ORIGINAL COMMENTS**

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

It is noted that the proposed extension will require two of the current parking spaces to be re-located to the front of the property.

As far as can be determined the length of the drive/ parking space proposed for the replacement spaces is inadequate. There is a potential for a vehicle to overhang the boundary and encroach onto the carriageway.

The proposal if permitted would potentially leave the dwelling with only 1 off-street parking space for a substantially enlarged property and could set a precedent for future similar dwellings which would likely lead to inappropriate parking detrimental to the general safety of all highway users and undermine the principle of seeking to discourage on-street parking in the locality.

The proposal is therefore contrary to policy DM1 and DM8 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Notes

For the re-located parking spaces at the front of the dwelling, the off-street parking as proposed is not acceptable.

1. Proposed driveway length for at least one of the spaces is less than 5 metres. The minimum driveway length for a single dwelling is 5 metres as per the Essex County Council's vehicle crossing criteria.

2. There is insufficient space proposed to accommodate 2 parking spaces of a minimum width 2.5 metres by 5 metres length recommended in the EPOA Parking Standards. Ideally, each

vehicular parking space shall have minimum dimension of 2.9 metres x 5.5 metres.

The Highway Authority may consider a revised proposal that includes off-street parking in accordance with the current Parking Standards.

ECC Highways Dept  
16.04.2020  
**AMENDED COMMENTS**

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 occupation of the extension a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be retained, 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.

2. The dwelling shall not be occupied until such time as a car parking and turning area has been provided in principal with amended block plan drawing no. Pa-11a. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 & 8.

3. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres; while any vehicular parking spaces which is bounded by walls or other construction shall have minimum dimensions of 3.4 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.

4. Any 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.

5. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: 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.

2: 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](mailto:development.management@essexhighways.org) or by post to:

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

3: 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**

17/00126/FUL	Change of use of land to residential and erection of side extension.	Approved	25.05.2017
17/01536/FUL	Proposed small extension to the rear of the approved extension and amendment to the previously approved roof form from half hip to gable.	Approved	21.11.2017
17/01691/FUL	Proposed small extension to the rear of the approved extension.	Approved	
20/00115/FUL	Retention of 2 no. metal posts and associated cabling across site.	Approved	27.04.2020

### **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

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG3A Mixed Communities

HG7 Residential Densities

HG9 Private Amenity Space

HG10 Conversion to Flats and Bedsits

HG13 Backland Residential Development

COM5 Residential Institutional Uses

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

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP8 Backland Residential Development

LP10 Care, Independent Assisted Living

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

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

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF

also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018, 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 and Context

The application site comprises of a single storey dwelling known as "Tuctaway." The application property is set back from Jaywick Lane accessed via a shared access along with other close by properties. The application site is also visible from Drakes Approach to the south of the site with a fence along this boundary.

Tuctaway forms part of the wider site to the north comprising Willow Park residential care and supported living complex.

### Description of Proposal

The application seeks full planning permission for extensions and alterations to the property to facilitate the conversion to 3 separate 2 bedroom assisted living apartments.

The application originally sought permission for 4 no. units on an unrestricted C3 use basis. However, concerns with the overdevelopment of the site, lack of parking and lack of amenity space has resulted in the application being amended to 3 no. units with the agreement from the agent and applicant that the permission would be subject to a restrictive condition.

### Assessment

The main considerations in this instance are;

- Principle of Development and Policy Considerations;
- Accessibility and Parking;
- Financial Contribution – Open Space and Play Space;
- Financial Contribution – Recreational Disturbance; and,
- Representations.

### Principle of Development

The site lies within the defined Settlement Development Boundary of Clacton on Sea where the principle of residential development is accepted as set out within Saved Policy HG3 of the adopted Tendring District Local Plan (2007) subject to detailed considerations. The sentiments of this policy are carried forward to draft Policy SPL2 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

Consideration has been given to the 'backland' residential policies HG13 of the adopted Local Plan and LP8 of the emerging Local Plan due to the site's location to the rear of road frontage linear development along Jaywick Lane. However, there are existing dwellings and development on the site which has established the principle of development in this locality.

Also of relevance in this instance is Saved Policy COM5 of the adopted Tendring District Local Plan (2007) which deals with residential institutional uses and states that applications for changes of use, new residential institutions and extensions to existing residential institutions will be considered on their own merits subject to meeting other relevant Local Plan policies and the following additional criteria (officer assessment in italics);

- the site would not be located away from existing Settlement Development Boundaries, in order that support services, facilities and public transport routes can be available. Only in exceptional circumstances may such uses be located outside existing Settlement Development Boundaries

***The site is located within the settlement development boundary for the area with Clacton Town Centre, the sea front and other amenities accessible on foot and on the bus.***

- the development would not lead to a clustering of similar uses in the locality;

***The site and development forms an extension to an established care complex and is not considered to set a harmful precedent that would result in the clustering of similar conversions in the locality.***

- the development would not create or give rise to a significant material adverse impact on public safety;

***The site is well contained via a private driveway and will be occupied by having no impact on the wider community or public safety.***

- there would be sufficient external space in the proposal to accommodate the normal recreation and other needs of residents, visitors or employees without impacting on highway safety, or the residential amenities enjoyed by adjoining properties; and
- the extent and nature of any alterations/extensions or new separate buildings which may be required for the purposes of the use proposed should not result in the over development of the site.

***The site forms part of the Willow Park complex which provides ample shared amenity space and parking.***

***Paragraph 108 of the National Planning Policy Framework 2019 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 and the design and layout of the development provides safe and convenient access for people. The sentiments of these policies are carried forward within draft Policy SPL3 and draft Policy CP1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017. Furthermore, the Essex County Council Parking Standards 2009 set out the parking requirements for new development. A dwelling with 2 or more bedrooms usually requires 2 parking spaces per dwelling.***

***Essex County Council Highway Authority has been consulted on the application. Originally an objection was raised to the development on the basis that insufficient parking and turning could be provided to serve the new development. The application has now been amended reducing the number of units and amending the layout of the development to provide more practical turning and parking areas. Essex County Council Highway Authority now recommend approval subject to conditions which will be imposed where necessary.***

***A reduction in the scheme and amendment to the layout has allowed sufficient parking spaces to be achieved to serve the existing and new development. The development results in a net increase of 2 units which is not considered excessive in regard to accessibility, parking and highway safety.***

***Paragraph 127 states that planning should always seek to secure a good standard of amenity for all existing and future occupants. In addition, Policy QL11 of the Tendring District Local Plan (2007) 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'. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives. Furthermore, Saved Policy HG14 requires a minimum of 1 metre side isolation between dwellings.***

***The proposal seeks the conversion of an existing residential unit into 3 units (including a small extension). The residential institutional use and residential use of***

***the existing building is established. The conversion of the existing dwelling into 3 units is not considered excessive. The extension itself is modest in scale. The proposal is of a size and scale in keeping with the existing building and will be finished in matching materials.***

***The site is set to the west of the residential curtilages of dwellings fronting Jaywick Lane and adjacent to the dwelling fronting Drakes Approach. Due to the distances between the existing and proposed dwellings, the intervening fences and single-storey nature of the proposal, no appreciable loss of amenity from disturbance, over-shadowing or over-looking would occur.***

***The scheme has been reduced to 3 no. 2 bed units with some amenity space immediately adjacent to the building and further amenity to the north of the site. Saved Policy HG9 of the adopted Tendring District Local Plan 2007 provides guidance on the minimum standards for private amenity space as follows;***

***For dwellings with 2 bedrooms 75m<sup>2</sup> private amenity space should be provided.***

***For apartments, either:***

- (i) a minimum of 25 square metres per flat provided communally; or***
- (ii) a minimum of 50 square metres private garden area for a ground floor flat or maisonette and a minimum balcony area of 5 square metres for units above.***

***The area immediately to the rear of the building provides approximately 195 square metres of communal amenity space which fails to meet the requirement for 3 no. separate 2 bedroom dwellings but exceeds the requirements for flats. The internal layout of the accommodation means that direct access to the amenity space from the living areas is not possible and the layout could not provide private amenity space for each unit. The communal space provided is considered acceptable and the residents would be further supported by the large gardens to the north of the site.***

***Overall, the development and use is not considered overdevelopment of the site***

- Where planning permission is granted, use rights under the provisions of the Use Classes Order may be withdrawn where there is evidence to suggest that a change of use from that granted to another use within the same Use Class would be inappropriate.

***A restrictive condition is considered necessary in this instance due to the proposal failing the parking standards and private amenity space standards for an unfettered C3 dwellinghouse use.***

#### Financial Contribution – Open Space and Play Space

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".

No contribution is being requested by the Council's Open Space Team on this occasion.

#### Financial Contribution - Recreational Disturbance

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.

C3 (dwellinghouses) and C2 (residential institutions and care homes) fall under the scope of the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). Where development will result in an increase in residents, a contribution is required.



The application scheme proposes a residential development resulting in a net increase of 2 residents on a site that lies within the Zone of Influence (Zol) being approximately 2900 metres from the Essex Estuaries SAC and Colne Estuary SPA and Ramsar. New housing development within the Zol would be likely to increase the number of recreational visitors to the Essex Estuaries and 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 completed unilateral undertaking has been provided to secure this legal obligation 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.

### Representations

The site is located within the non parished area of Clacton on Sea.

No letters of representation have been received.

### Conclusion

In the absence of any material harm resulting from the development, the proposal is considered to result in a sustainable development that accords with national and local planning policy and provides a financial contribution toward recreational disturbance.

## **6. Recommendation**

Approval - Full

## **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:

PA-10A Amended Proposed Floor Plan and Elevations  
PA-11C Amended Proposed Block Plan  
PA-12A Amended Site Plan

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

- 3 The assisted living apartments hereby permitted shall be occupied by persons that are in need of care or assistance (as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended). The development 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 or re-enacting that Order with or without modification), without first obtaining planning permission from the Local Planning Authority.

Reason - In the interests of residential amenities as the level of private amenity space and private parking would be substandard for an unfettered Class C3 Use.

- 4 The development shall not be occupied until such time as a car parking and turning area has been provided in accordance with amended block plan drawing no. PA-11C. These facilities

shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

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

- 5 Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres; while any vehicular parking spaces which is bounded by walls or other construction shall have minimum dimensions of 3.4 metres x 5.5 metres.

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

- 6 All new hardstanding and parking areas shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the site.

Reason - In the interests of sustainable development and to ensure that run-off water is avoided to minimise the risk of surface water flooding.

## **8. Informatives**

### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Agent, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, 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.

### Highways Informatives

1: 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.

2: 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.

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3: 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.

4: Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway to ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety.