

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	DM	18/01/21
Planning Development Manager authorisation:	TC	18/01/2021
Admin checks / despatch completed	CC	19.01.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	DB	19.01.2021

Application: 18/01629/FUL **Town / Parish:** St Osyth Parish Council

Applicant: Mrs Sarah Ford

Address: Land adjacent Moulsham Lodge 9 Beach Road St Osyth

Development: Proposal for new Bungalow.

1. Town / Parish Council

Mr Parish Clerk St Osyth
Parish Council
19.10.2018

The Parish Council object to this application as not only is the proposed development forward of the building line of the adjacent properties and outside of the Settlement Development Boundary, but from the plans it would seem that the property is too close to the adjacent road (Beach Road), especially given that the access to the property is on the same side of the dwelling as the road.

2. Consultation Responses

Natural England

ECC Highways Dept
18.03.2019

The information that was submitted in association with the application has been fully considered by the Highway Authority.

The proposal is situated within an existing 1 dwelling plot with an existing private drive that will also serve this new application. The plot retains adequate room and provision for off street parking and turning, for the existing and proposed dwelling therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following conditions:

1. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the private road.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1

2. 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.

3. 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.

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/carriageway (delete as appropriate). 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:

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 2:

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.

Tree & Landscape Officer
22.10.2018

The site benefits from a reasonable level of screening provided by the hedgerow on the boundary of the application site with the highway which comprises of neatly clipped 'Leylandii' to a height of approximately 2.5m.

There are two established Horse Chestnuts situated in the hedge that make a reasonable contribution to the appearance of the locality. It would appear that the development proposal could be implemented without causing harm to the hedgerow or to the Horse Chestnuts. It may however be necessary for the applicant to provide details of the method of construction of the driveway to ensure that the Root Protection Area of the trees is not compromised.

Any such information should be in accordance with BS5837 2012 Trees in relation to design, demolition and construction: Recommendations.

The information provided by the applicant shows the removal of an early mature Spruce (Christmas tree) this will not have an adverse impact on the character or appearance of the area.

UU Open Spaces
16.03.2020

Recommendation:
Due to the limited provision in the village it is felt a contribution towards play and formal open space is justified and relevant to this planning application. This contribution would be spent to enhance the existing play area closest to the development at:

Priory Meadow, Park Road

3. Planning History

92/00695/FUL	(Moulsham Lodge, Beach Road, St Osyth) Conversion of garage into lounge and extension to form dining area	Approved	21.07.1992
94/01311/FUL	Proposed garage	Approved	30.11.1994
90/00061/FUL	Removal of condition No. 4 (relating to agricultural occupancy restriction) from permission TEN/982/77.	Approved	03.07.1990
18/01629/FUL	Proposal for new Bungalow.	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
HG6 Dwelling Size and Type
HG7 Residential Densities
HG9 Private Amenity Space
TR1A Development Affecting Highways
EN6 Biodiversity
EN6A Protected Species
EN1 Landscape Character
EN11A Protection of International Sites European Sites and RAMSAR Sites
COM6 Provision of Recreational Open Space for New Residential Development
TR7 Vehicle Parking at New Development
TR1A Development Affecting Highways

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

SP1 Presumption in Favour of Sustainable Development
SPL1 Managing Growth
SPL3 Sustainable Design
LP1 Housing Supply
LP3 Housing Density and Standards
LP4 Housing Layout

PPL3 The Rural Landscape
PPL4 Biodiversity and Geodiversity
CP1 Sustainable Transport and Accessibility
CP2 Improving the Transport Network
HP5 Open Space, Sports & Recreation Facilities

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The site is a dwelling house situated at the southern extreme of a strip of ribbon development located 320m from the Settlement Development Boundary at St. Osyth. Moulsham Lodge is a large extended bungalow with a double garage to the eastern side, adjacent to Beach Road. Access is via a shared cul de sac that serves a number of other dwellings. The boundary with the Highway is marked by a tall dense hedgerow. The application site comprises the parking area and double garage to the side. To the side and rear is a large garden associated with Moulsham Lodge. Further land extends to the south, with a separate vehicular access off Beach Road. This section of Beach Road is predominantly bungalows of varying size and design. The application site is L-shaped. The site is ca. 320m walk to the Settlement Development Boundary along a narrow road with no footpaths or lighting meaning in planning terms that it is situated in the open countryside. St. Osyth is defined as a Rural Service Centre within the draft Tendring District Local Plan. St. Osyth and benefits from *inter alia* a primary school, a GP surgery, a defined centre and a good bus route.

Proposal

The application proposes a new three bedroom bungalow. It would be sited within the sub-divided Moulsham Lodge site to the southeast of the existing dwelling. It would utilise the existing garage to the east for the new bungalow. The new dwelling would be single storey in scale and would employ a hipped roof form with box bay window to the east facing elevation.

Site History

There is no recent or relevant planning history

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). St. Osyth lies to the north west of the site. This settlement is defined within the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) as a Rural Service Centre. 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.

Paragraph 7 of the National Planning Policy Framework 2019 (NPPF) states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 explains that achieving sustainable development means that the planning system has three overarching objectives, namely an economic objective, a social objective and an environmental objective. However, Paragraph 9 emphasises that these objectives should be delivered through the preparation and implementation of plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. This is supported through Paragraph 11 which states that plans and decisions should apply a presumption in favour of sustainable development and for plan-making this means that plans should positively seek opportunities to meet the development needs of their area. Strategic policies should, as a minimum, provide for objectively assessed needs for housing.

For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay. Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date then permission should be granted. Footnote 7 explains that this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites with the appropriate buffer, as set out in paragraph 73.

However, Paragraph 12 of the NPPF states that presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. Paragraph 47 confirms that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

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) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10th December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.

The Council is now making arrangements to formally adopt Section 1 of the Local Plan in its modified state and this is expected to be confirmed at the meeting of Full Council on 26th January 2021 – at which point will become part of the development plan and will carry full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan. In the interim, the modified policies in the Section 1 Local Plan, including the confirmed housing requirement, can be given significant weight in decision making owing to their advancement through the final stages of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) is now expected to proceed in 2021 and two Inspectors have already been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.

Where emerging policies are particularly relevant to a planning application and can be given 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 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 technically falls below 5 years – but this is only because, until the modified Section 1 Local Plan is formally adopted at the end of January 2021, housing supply has to be calculated against a housing need figure derived through the government's 'standard methodology' – a figure that is significantly higher than the 'objectively assessed housing need' of 550 dwellings per annum in the Section 1 Plan and confirmed by the Inspector in his final report to be sound. Because of this technicality, the NPPF still requires 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.

However, because the housing land supply shortfall is relatively modest when applying the standard method prescribed by the NPPF and significant weight can now be given, in the interim, to the sound policies in the modified Section 1 Plan (including the housing requirement of 550 dwellings per annum), the reality is that there is no housing shortfall and, on adoption of the Section 1 Plan, the Council will be able to report a significant surplus of housing land supply over the 5 year requirement, in the order of 6.5 years. Therefore, in weighing the benefits of residential development against the harm, the Inspector's confirmation of 550 dwellings per annum as the actual objectively assessed housing need for Tendring is a significant material consideration which substantially tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing – particularly in the consideration of proposals that fall outside of the settlement development boundaries in either the adopted or the emerging Section 2 Local Plan.

In this instance, the site lies outside of the settlement development boundary for St. Osyth 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.

Saved Policy QL1 of the adopted Local Plan remains broadly consistent with the NPPF objective for achieving sustainable development. This is through a plan-led approach that focuses development to locations which are or can be made sustainable, limiting the need to travel and offering a genuine choice of transport modes. This also includes making effective use of land, particularly that which is previously developed, in meeting the need for homes. Those planned for rural areas are responsive to local circumstances and support local needs, whilst recognising the intrinsic character and beauty of the countryside. Emerging Policy SPL1 of the Publication Draft gain traction due to the same consistency with the NPPF as found in respect of those in the adopted Local Plan.

As set out above, the policies for the delivery of housing are considered up-to-date and the application must therefore be determined in accordance with Paragraph 11 c) of the NPPF, thus in accordance with the development plan.

Regardless of the proximity of the site in relation to services and amenities, there is no longer a requirement to consider such sites due to their location outside of the defined settlement development boundaries as the planned growth for the District to meet housing need has been established. In applying the NPPF's presumption in favour of sustainable development, the adverse impacts of the proposal both on the character of the locality and on the Council's ability to manage growth through the plan-led approach, are not outweighed by any benefits. The development is unnecessary and there are no public benefits that might warrant the proposal being considered in an exceptional light. The proposal is therefore contrary to the aims of paragraph 11 of the NPPF and contrary to the development plan Saved Policy QL1 and emerging Policy SP1.

Relating to this Site

In addition to the abovementioned points relating to the lack of a principle of development having been established it is pertinent to restate that the site would extend a band of ribbon development outside of the settlement boundary and would not be an infill site. While it is ca. 320m from the SDB shops, the school and other services are at least double that distance. Beach Road is narrow and does not include path for pedestrians or cyclists so it self-evident that occupants of the proposed dwelling would rely on the car for access to the village contrary to the NPPF sustainable development objectives. It would set a poor precedent for future plan-led development in the district when the Council can demonstrate in excess of the five year housing land supply in accordance with Paragraph 11 c) of the NPPF.

Design Scale and Layout

Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes onto say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies

In terms of design the proposal would echo the bungalow theme else along the ribbon however it would be slightly smaller and simpler in form with a tiled and hipped roof, facing brickwork, a bay window to the northeast facing elevation. It would be sited south of the existing gabled garage and fill in the rear garden area of the existing Moulsham Lodge. Dimensions are 14m in length, 5m roof ridge height and 8m width. In terms of its impact on the character of the countryside location outside of development boundaries its modest size and the screening from the roadside provided by the hedge means that it would be relatively inconspicuous from most viewing angles. It does however represent the extension of ribbon development in the countryside and this has a cumulative visual impact which is relatively minor but notable nonetheless.

Access, Parking and Highways Safety

Saved Policy QL10 of the Saved Plan 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.

Essex Highways maintain no objection to the proposal as it utilises an existing access and there is space off street parking and turning according to standards. Officers consider that sufficient space is available on site to provide a development that could achieve access, turning and parking in line with the requirements the Council's current adopted Parking Standards.

Neighbour & Residential Amenity

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).

Regarding the relationship between existing and proposed dwellings a standard 1.8m close boarded fence provides for privacy between the dwellings. Due to the single storey scale of both neither will overlook the other therefore privacy and overbearing impacts will not be apparent. The total private amenity space available to the new dwelling would be 90sqm, ca, 10sqm less than the minimum standard required for a three bedroom dwelling under adopted policy HG9. As such this has been added to the reasons for refusal. With respect to the existing dwelling the private amenity area would be significantly reduced and most would now be to the front of the dwelling but given

the layout of the site the remaining space would remain reasonably private so there it is not considered that the existing dwelling would be left without adequate private amenity space.

Trees and Landscaping:

No objections. Tree protection measures could have been conditioned to address the concerns raised by the Arboricultural Officer.

Financial Contribution - Open Space and Play 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.

In line with the requirements of saved Policy COM6 and emerging Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space.

Due the current deficit of play provision a contribution towards play provision is both relevant and justified to this application. The contribution received will be used to make improvements at the play area located at Priory Meadow, Park Road.

- Financial Contribution - Recreational Disturbance Avoidance and Mitigation Strategy

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 one new dwelling on a site that lies within the Zone of Influence (Zoi) being approximately 1400 metres from the Colne Estuary SPA and Ramsar. Since the development is for one dwelling only, the number of additional recreational visitors would be limited and the likely effects 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 the protected sites; 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.

Representations

The Parish Council oppose the application because it is outside the Settlement Development Boundary. They also note that it is forward of the building line and that it is too close to the road. The case officer notes the comments however the new dwelling would not breach the building line established by Moulsham Lodge.

No neighbour objections have been received.

6. Recommendation
REFUSE

7. Conditions / Reasons for Refusal

1. 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.

Saved Policy QL1 of the adopted Local Plan remains broadly consistent with the NPPF objective for achieving sustainable development. This is through a plan-led approach that focuses development to locations which are or can be made sustainable, limiting the need to travel and offering a genuine choice of transport modes. This also includes making effective use of land, particularly that which is previously developed, in meeting the need for homes. Those planned for rural areas are responsive to local circumstances and support local needs, whilst recognising the intrinsic character and beauty of the countryside. Emerging Policy SPL1 of the Publication Draft gain traction due to the same consistency with the Framework as found in respect of those in the adopted Local Plan.

As set out above, the policies for the delivery of housing are considered up-to-date and the application must therefore be determined in accordance with Paragraph 11 c) of the NPPF, thus in accordance with the development plan.

The application 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).

Regardless of the proximity of the site in relation to services and amenities, there is no longer a requirement to consider such sites due to their location outside of the defined settlement development boundaries. In applying the NPPF's presumption in favour of sustainable development, the adverse impacts of the proposal both on the character of the locality and on the Council's ability to manage growth through the plan-led approach, are not outweighed by any benefits. The development is unnecessary, would be entirely car reliant for occupants to access services and there are no public benefits that might warrant the proposal being considered in an exceptional light. The proposal is therefore contrary to the aims of paragraph 11 of the NPPF and contrary to the development plan Saved Policy QL1 and emerging Policy SP1.

2. The National Planning Policy Framework 2019 (NPPF) at paragraph 127 states that planning decisions should ensure that developments will function well and add to the overall quality of the area. Saved Policy HG9 of the adopted Tendring District Local Plan 2007 outlines the minimum garden space standards for new dwellings as calculated by the number of bedrooms per dwelling. In this instance the proposed new dwelling would fail to meet the minimum private amenity space standards for a three bedroom dwelling. In doing so the proposal would provide poor residential amenity at the new dwelling which is contrary to listed policies and cannot be supported as it would set a precedent for poor quality development in the District.

Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

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