

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	09/03/2021
Planning Development Manager authorisation:	SCE	10.03.2021
Admin checks / despatch completed	ER	10/03/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	10.03.2021

Application: 20/00125/FUL **Town / Parish:** Clacton Non Parished

Applicant: Mr Michael O'Brien

Address: Land adjacent 206 Wellesley Road Clacton On Sea Essex

Development: 4 x 1 bed flats

1. Town / Parish Council

Clacton is non parished

2. Consultation Responses

ECC Highways Dept
08.03.2021

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

As indicated previously, although the location has a local railway station and is close to other public transport facilities, the overall parking and turning provision for the density of the application is considered to be inadequate for the application as proposed.

Based on amended block plan drawing no. 150i the proposal would lead to intensification of use of the site without convenient and efficient turning facilities. The proposal would therefore lead to indiscriminate and unmanaged parking or vehicles reversing into the highway to the detriment of highway safety.

The proposal if permitted would set a precedent for future similar developments 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

1. The proposal shows three off-street parking spaces for the 4 x one bedroomed flats, where the Parking Standards Design and Good Practice September 2009 recommend a minimum of one space per dwelling; there is minimal on-street parking in the vicinity.
2. The Highway Authority raises concerns over the density of the site in relation to the parking and turning area being provided; which appear to fail to provide sufficient manoeuvring that is likely to impede manoeuvring from the space into the access area and turning to leave and join the highway in forward gear.
3. The proposal will lead to confusing signalling and conflicting slowing and vehicular turning movements in the immediacy of the an extremely busy and heavily congested complex junction contrary to the interests of highway safety and Policy DM1.
4. As far as can be determined from the submitted plans the proposal fails to provide sufficient off street parking spaces which is likely to lead to vehicles being left parked in the access route or adjacent highway already heavily used or restricted by on-street parking restrictions causing conditions of danger, obstruction or congestion contrary to highway safety and Policy DM1 and 8.

The Highway Authority may consider a revised application which addresses the issues raised above.

3. Planning History

18/01242/FUL	Proposed garage and conservatory.	Approved	25.09.2018
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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

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

EN6 Biodiversity

COM6 Provision of Recreational Open Space for New Residential Development

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

LP3 Housing Density and Standards

LP4 Housing Layout

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. In this latter regard, as of 26th January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.

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 has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26th January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have 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.

With the adoption of the modified Section 1 of the emerging Local Plan, the Councils 'objectively assessed housing need' of 550 dwellings per annum has been found 'sound' and there is no housing shortfall. The Council is able to report a significant surplus of housing land supply over the 5 year requirement, in the order of 6.5 years.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site is land adjacent 206 Wellesley Road, Clacton on Sea. The character of the surrounding area is predominantly urban, with examples of semi-detached and terraced residential properties to all sides. The site falls within the Settlement Development Boundary for Clacton on Sea within both the Tendring District Local Plan 2007 and the Emerging 2013-2033 Tendring Local Plan Publication Draft.

Description of Proposal

The application seeks planning permission for the erection of 4 x 1 bed flats.

The application has been subject of several amendments including the proposed erection of 4 x dwellings with associated works, 3 x 1 bed dwelling and 2 x 2 bed flats (5no.) with 3 unallocated spaces (includes a visitor space), 4 x 2 bed flats.

Assessment

The main considerations for this application are:

- o Principle of Development
- o Layout, Scale and Appearance
- o Residential Amenities
- o Highway Safety and Parking Provision
- o Trees and Landscaping
- o Financial Contributions - Open Space

- o Habitat Regulations Assessment
- o Other Considerations

1. Principle of Development

The site is situated within the defined settlement limits of Clacton on Sea 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. Layout, Scale and Appearance

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).

In terms of the design and appearance, the building is terraced, two storey and accessed via Wellesley Road. It is considered that the features proposed are all positive and contribute positively to the overall design and appearance of the proposed dwelling.

The proposed materials; facing brickwork, concrete roof tiles and cladding which are considered to be in keeping with the surrounding area.

The proposed development is not considered to cause a cramped appearance and will retain one metre to both neighbouring side boundaries in line with Policy HG14 of the Tendring District Local Plan 2007.

The block plan demonstrates that there is a communal area to the rear of the proposed development that will provide amenity space for the flats to the ground floor as the amenity space measures approximately 55 square metres. In regards to the two first floor flats, the block plan demonstrates that both of the first floor flats are served by a balcony measuring approximately 5 square metres. The proposed development therefore complies with Policy HG9 of the Tendring District Local Plan 2007.

3. Residential Amenities

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).

There are first floor windows serving the bathrooms of the two first floor flats. A condition could be imposed to ensure that these are obscure glazed to reduce any impact of overlooking onto the neighbouring amenities to number 206 and number 300 Wellesley Road.

The proposed development retains at least one metre to every boundary including the boundary shared with number 300 Wellesley Road. In regards to the windows located to the rear, although this will create some overlooking onto the garden area of number 300 Wellesley Road, the views will be towards the rear of the garden rather than the area most used nearest to the house.

The proposed development is located away from number 206 Wellesley Road. Although the development will be visible to the neighbouring dwelling, the proposed car park will be screened by a 1.8 metre fence which will denote the boundary. It is therefore considered that the proposal will not cause any significant impact upon neighbouring amenities.

4. Highway Safety and Parking Provision

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. Furthermore, Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users.

Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Additionally, the current Essex County Council Parking Standards 2009 set out the requirements for residential development. A 1 bedroom dwelling requires 1 parking space. 0.25 spaces per dwelling (unallocated) (rounded up to nearest whole number) should be provided for visitors. The preferred vehicle parking bay sizes are set out in paragraph 3.2.1 of the standards stating that each space should be 5.5m x 2.9m. Paragraph 3.2.7 goes on to say that parking areas that are adjacent to solid structures such as a wall or fence should increase the width of these bays by 1m to allow for improved manoeuvrability and entry/exit of people to/from the vehicle. The standards do allow for a minimum bay space of 5m x 2.5m but this bay size should only be used in exceptional circumstances.

Essex Highway Authority object to this application. As indicated previously, although the location has a local railway station and is close to other public transport facilities, the overall parking and turning provision for the density of the application is considered to be inadequate for the application as proposed.

Having regard to the above standards, the proposed development is for 4 x 1 bed flats and therefore requires 4 spaces with one visitor parking space. The block plan demonstrates that 3 parking spaces are provided with two spaces to the rear of the site and one space to the front of the application site. All three spaces are located against a fence and therefore the spaces should demonstrate an increase in width to allow for manoeuvrability. The 3 parking spaces are considered undersized and furthermore, the constrained parking spaces appear to fail to provide sufficient manoeuvring or circulatory space for pedestrians accessing the car, the restricted width of the car space is also likely to impede manoeuvring from the space into the access area and turning to leave and join the highway.

The overall parking provision for the density of the application is wholly inadequate in terms of both the number of spaces and bay size/manoeuvrability. As far as can be determined from the submitted plans the proposal fails to provide sufficient off street parking spaces which is likely to lead to vehicles being left parked in the access route or adjacent highway already heavily used or restricted by on-street parking restrictions causing conditions of danger, obstruction or congestion contrary to highway safety. The proposal would set a precedent for future similar developments 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.

5. Trees and Landscaping

The application site currently comprises part of the garden of an adjacent property and an area of rough grass previously situated to the front of advertising hoarding that has been previously removed. There are two trees on the land; an Apple tree and an Elder that would need to be removed in order to facilitate the development proposal. Neither tree merits retention or protection by means of a tree preservation order. A soft landscaping condition will be imposed to soften and enhance the appearance of the proposed development.

6. Financial Contributions - Open 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".

There is currently a deficit of 41.08 hectares of play in the Clacton/Holland area.

The closest play area to the development is from the proposed development on Marine Parade West. This play area is likely to see the biggest impact from the development. Due to the significant lack of play facilities in the area it is felt a contribution towards play is justified and relevant to the planning application. The contribution will be used to increase the provision as the nearest play area Marine Parade.

A completed unilateral undertaking has been provided to secure this legal obligation and to ensure compliance with saved policy COM6.

7. Habitat Regulations Assessment

Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.

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 a new dwelling on a site that lies within the Zone of Influence (Zol) approximately 5.8km away from Colne Estuary Ramsar Site and SPA.

New housing development within the Zol 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 completed unilateral undertaking has been received to secure the financial contribution required 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.

8. Other Considerations

Clacton is non parished.

Seven letters of objection (from the same household) have been received raising the following concerns:

- Concerns with number 206 Wellesley Road and the trees planted along the boundary. Concerns that the wind blows very strongly on this corner and leaves will keep blowing over the property.
- Concerns with the number of parking spaces
- Concerns where the communal bins will be placed

In response to the concern in regards to the trees along the boundary, a soft landscaping condition would be imposed to ensure that details of soft and hard landscaping is submitted to the local planning authority prior to construction.

In response to the number of parking spaces, this has been addressed in the report above.

In response to the communal bins, the bin store/collection is noted on the proposed block plan.

6. Recommendation

Refusal - Full

7. Reasons for Refusal

- 1 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. Furthermore, Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users.

Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

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8. 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 Agent. 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