

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	JR	16.04.2021
Planning Development Manager authorisation:	TF	16/04/2021
Admin checks / despatch completed	CC	16.04.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	16/04/2021

Application: 21/00089/FUL **Town / Parish:** Clacton Non Parished

Applicant: Mr and Mrs Panrucker

Address: Site adjacent 1 Hereford Court Holland On Sea Clacton On Sea

Development: Proposed detached bungalow.

1. Town / Parish Council

Clacton - Non Parished

2. Consultation Responses

ECC Highways Dept No comments received

UU Open Spaces No contribution is being requested on this occasion.

TDC Building Control and Access Officer No comments at this stage.

TDC Tree & Landscape Officer No objection – trees on site do not warrant legal protection in the form of a TPO. There is limited opportunity for new soft landscaping, details of plant species and specification should be secured by a planning condition attached to any planning permission that may be granted

3. Planning History

07/00934/FUL Residential new two storey house with conservatory. Refused 31.07.2007

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

COM6 Provision of Recreational Open Space for New Residential Development

EN6	Biodiversity
EN11A	Protection of International Sites European Sites and RAMSAR Sites
HG1	Housing Provision
HG9	Private Amenity Space
LP1	Housing Supply
TR1A	Development Affecting Highways
TR7	Vehicle Parking at New Development

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

SP1	Presumption in Favour of Sustainable Development
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP5	Open Space, Sports & Recreation Facilities
PPL4	Biodiversity and Geodiversity

Local Planning Guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. 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 site is located on the southern side of Hereford Road. Hereford Court is a small cul de sac accessed via a single lane road and comprises of 4 'Swiss chalet' style dwellings, each with their main amenity area fronting Hereford Court. The application site is currently part of the garden area of No. 1 Hereford Court and is some 23.1m deep x 11.6m wide.

Historically the 4 properties in Hereford Court were built in 1933 as holiday accommodation.

Proposal

The application seeks planning permission to construct a detached bungalow with new vehicular access from Hereford Road. A driveway is proposed along the western boundary. The proposed bungalow has a hipped roof with front gable projection and measures 15.8m deep x 7m wide, with an eaves height of 2.6m and a maximum height of 5.1m.

The proposed materials are red brickwork, cream render, natural slate roof tiles, white framed windows and doors, 1.8m high close boarded boundary fence and RMC Brindle blocks for the driveway. The bungalow would comprise of 2 bedrooms, bathroom, en-suite and an open plan kitchen, dining and living area.

Assessment

The main planning considerations are the principle of development, layout, scale and appearance, Living conditions of future occupiers, impact on neighbouring amenities, highway considerations, financial contributions in regard to RAMS and Open Space (COM6), neighbour representations and any other considerations.

Principle of Development

The site is located within the Settlement Development Boundary of Clacton-on-Sea, therefore there is no principle objection to the proposal, subject to the detailed considerations discussed below.

Layout, Scale and Appearance

National planning policies attach great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. One of the core planning principles of the National Planning Policy Framework (NPPF) is to always seek to secure high quality design.

Saved Policies QL9, QL10 and QL11 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Emerging Policy SP1 reflects these considerations.

Due to the orientation of the dwellings in Hereford Court, the proposed development is to be sited in a prominent front garden location, adjacent to Hereford Court access way. The open lawn area, associated landscaping and trees present on the site, currently make a positive contribution to the well-preserved character of this distinctive group of 4 properties and is not considered to be an appropriate location for development of this nature. The siting of the proposed bungalow is around 1.2m from the boundary with Hereford Court and would see the replacement of the existing low open slated fence with a 1.8m high fence around the site, thus enclosing the site in a manner which is out of character and would interrupt the views across to the original chalet dwelling. This is considered to result in visual harm to the character of the Hereford Court. The modern bungalow would result in a cramped, incongruous and contrived built form to this existing area of open amenity area and would materially disrupt the established building line.

Overall, the proposed bungalow is considered to represent overdevelopment of the site, eroding the open and spacious character of the dwellings in Hereford Court. The development is inappropriate in this locality and fails to make a positive contribution to the quality of the local environment contrary to the aims of the above-mentioned national and local plan policies.

Living Conditions of Future Occupiers:

The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

The technical housing standards – nationally described space standards (March 2015) deals with internal space within new dwellings and sets out the requirements for Gross Internal (floor) Area (GIA) for new dwellings based on occupancy and room sizes.

The proposal is a two bedroom bungalow with a GIA of approximately 95m² and therefore exceeds the required GIA of 70m² for a two bedroom, 4 person one storey dwelling and accords with the additional requirements in regards to storage space and bedroom provision and sizes.

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

Private amenity space shall be provided to new dwellings in accordance with the following standards: a two bedroom dwelling - minimum of 75 square metres. In accordance with the policy requiring the area to not be overlooked by adjacent or opposite living rooms or outdoor sitting areas, the proposed dwelling would have sufficient private amenity space. It is also a requirement that, following the sub-division of a plot, the host dwelling can still achieve the required standards. The host dwelling has three plus bedrooms and, in accordance with the standards, their resultant amenity space would be in excess of 100sqm.

Therefore the proposed bungalow is considered acceptable and policy compliant in these regards.

Impact on Neighbour Amenity

The NPPF, 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).

The proposed dwelling is of a single-storey nature and no windows are proposed above eaves level. Along with the orientation of the bungalow in relation to Hereford Court and the neighbouring dwellings, it is not considered that the proposal would result in harm to the residential amenities of the neighbouring occupiers in terms of overlooking, undue sense of enclosure, loss of privacy, outlook or light. However given the small size of the site, it is considered had the application been found to be acceptable, it would be necessary to remove permitted development rights to prevent any extensions to the property particularly within the roof as this could result in overlooking and loss of privacy to the neighbouring dwellings. The proposal is considered to secure a good standard of accommodation and amenity for future occupants of the proposed dwelling.

Highways

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

The Council's current adopted Parking Standards state that the preferred bay size for cars is 5.5 metres by 2.9 metres and the minimum bay size is 5 metres by 2.5 metres.

The proposed bungalow has a new vehicle access form to Hereford Road and is considered to be acceptable in terms of highway safety. No Highway comments have been received. The driveway is capable of accommodating the required two parking spaces (5.5m x 2.9m) and the parking for No. 1 Hereford Court is not affected by the proposal.

From a highway and transportation perspective the impact of the proposal is acceptable.

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. The contribution is secured by unilateral undertaking.

The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 7300m from Hamford Water SPA, SAC and RAMSAR. Since the development is for 1 dwelling only, the number of additional recreational visitors would be limited and the likely effects on Hamford Water SPA, SAC and RAMSAR from the proposed development alone may not be significant. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Hamford Water SPA, SAC and RAMSAR 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.

Public Open Space

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

Policy COM6 of the adopted Tendring District Local Plan 2007 states *"For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built"*. These sentiments are carried forward within emerging Policy HP5.

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. The outcome of the consultation is that no contribution is being requested from Open Spaces on this occasion.

Representations

One representation has been received:

Summary of matters raised:

- Overcrowding of buildings with Hereford Court
- Impact on nature and light into neighbouring gardens
- Increase in noise pollution due to bungalow in close vicinity to neighbouring dwellings
- Impact on parking provision
- Access to properties during the build would be compromised
- Hereford Court is a private road and any damage from the construction of the bungalow would be the responsibility of the homeowners.
- Area for the bungalow is too small and will have a negative impact on the amenities of the occupiers of Hereford Court

Relevant material planning considerations have been taken into consideration in the appraisal of the application. The application is recommended for refusal.

Conclusion

The proposed development would be sited on an existing landscaped amenity area which currently contributes positively to the openness and overall quality and character of the area. The introduction of a dwelling on the site would result in an incongruous, cramped and contrived built form and would therefore be visually harmful to the character and established building line in Hereford Court. The development is inappropriate in this locality and fails to make a positive contribution to the quality of the local environment contrary to the aims of the above-mentioned national and local plan policies which warrants refusal of planning permission. The proposal is therefore recommended for refusal.

6. Recommendation

Refusal – Full

7. Reason(s) for Refusal

1. 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. Paragraph 127 of the NPPF states that planning decisions should ensure that developments add to the overall quality of the area and are sympathetic to local character and history, including the surrounding built environment. Policy QL9 and QL 11 of the Tendring District Local Plan (2007) seek to ensure that all new development makes a positive contribution to the quality of the local environment and is of a suitable scale and nature appropriate to the locality. These sentiments are carried forward within Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The proposed development would by virtue of its siting forward of the established building line, result in an incongruous, cramped and contrived built form and would therefore be visually harmful to the character and appearance of the host dwelling and the wider streetscene. The development is therefore unacceptable and fails to makes a positive contribution to the quality of the local environment contrary to the aims of the above-mentioned national and local plan policies which warrants refusal of planning permission.

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 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:		NO
Are there any third parties to be informed of the decision? If so, please specify: If we notify neighbours who have written in of the decision??	YES	