

## **DELEGATED DECISION OFFICER REPORT**

<b>AUTHORISATION</b>	<b>INITIALS</b>	<b>DATE</b>
File completed and officer recommendation:	AL	19/04/2021
Planning Development Manager authorisation:	JJ	21/04/2021
Admin checks / despatch completed	ER	21/04/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	21.04.2021

**Application:** 21/00181/FUL **Town / Parish:** Little Clacton Parish Council

**Applicant:** Mr Palmer

**Address:** Land adjacent to 3 Edward Close Little Clacton Clacton On Sea

**Development:** Proposed construction of three detached bungalows (variation to previously approved 18/00330/FUL).

### **1. Town / Parish Council**

Little Clacton Parish  
Council  
03.03.2021

The plot had previously had two approved building applications for properties, which we have recommended refusal. There would be limited outdoor space, the new builds being shoe-horned onto a relatively small plot. As the local plan and building numbers have been approved we see no reason for this application to be granted.

If approved we would ask that the garages must remain as garages and not be converted into an interior/living space, to maintain the two parking spaces.

### **2. Consultation Responses**

ECC Highways Dept  
19.4.2021

Having regard to the fact that Edward Close is a private road, and appropriate visibility splays are available within the highway at the junction with Harwich Road, the Highway Authority does not wish to raise any objection to the proposal as submitted.

### **3. Planning History**

17/00285/FUL	Detached bungalow.	Refused	06.06.2017
17/01436/FUL	Erection of a pair of semi-detached houses and a detached bungalow.	Approved	24.10.2017
18/00330/FUL	Three detached bungalows.	Approved	04.07.2018
19/00100/FUL	Proposed single storey rear extension including 2 no. roof lights and front oak framed canopy.	Approved	18.03.2019
20/00647/DISCON	Discharge of conditions 7 (Bin Storage) and 8 (Landscaping) of approved application 18/00330/FUL.	Approved	21.07.2020
20/01830/TPO	1 No. Oak - reduce crown on western aspect by 4m, 1 No. Oak -	Approved	11.02.2021

reduce crown on western aspect by  
2.5m.

21/00143/TELLIC

Proposed LV Underground cable  
installation.

Determinati  
on

17.02.2021

#### **4. Relevant Policies / Government Guidance**

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL2 Promoting Transport Choice

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

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG13 Backland Residential Development

HG14 Side Isolation

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

EN1 Landscape Character

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

COM6 Provision of Recreational Open Space for New Residential Development

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

SP1 Presumption in Favour of Sustainable Development

SP2 Spatial Strategy for North Essex

SP3 Meeting Housing Needs

SP6 Place Shaping Principles

SPL1 Managing Growth

SPL3	Sustainable Design
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
LP8	Backland Residential Development
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
HP5	Open Space, Sports & Recreation Facilities
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 26<sup>th</sup> 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 10<sup>th</sup> 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 26<sup>th</sup> 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 located in the south-east corner of Edward Close, a modest cul-de-sac of semi-detached houses on the eastern outskirts of Little Clacton and to the south of Harwich Road.

Edward Close is part of an isolated group of dwellings situated a few hundred metres to the east of Little Clacton's built-up area. Whilst the site is shown within the settlement development limits of the adopted Tendring District Local Plan (2007), it is excluded from the settlement development boundary in the emerging Local Plan, which seeks to concentrate new housing development closer to the centre of established villages.

The site formerly comprised of the side/rear garden of the existing semi-detached house that is situated at the head of the cul-de-sac which formerly contained a garage building and a mobile home used by a former owner as ancillary accommodation.

The site already benefits from planning permission to erect three detached bungalows approved under planning application reference 18/00330/FUL. At the time of the officer site visit it was apparent that the development had commenced, as specified within question 5 of the accompanying application form.

### **Description of Proposal**

As stated above, development of the site has commenced following the approval of planning application reference 18/00330/FUL and related discharge of condition application 20/00647/DISCON (bin store and landscaping details). It should also be noted that planning permission was granted for the 'Erection of a pair of semi-detached houses and a detached bungalow' under planning application reference 17/01436/FUL prior to the approval of 18/00330/FUL.

The works already carried out on site do not fully accord with the most recently approved plans. This application therefore seeks to regularise the development through the submission of this new full application. The changes as built/proposed go beyond the parameters of a s73 variation, hence the submission of a new full application.

This application therefore seeks full planning permission for the erection of 3 detached bungalows. The amendments to the previous scheme approved under reference 18/00330/FUL can be summarised as follows:

### **Site Layout**

- 1m to side boundaries (Plot 3 now with wider separation to site boundary)
- Access Road amended/relocated nearer to front boundary

- Larger front gardens
- Plot 3 dwelling sited a further 3m back

#### Design Changes

- Chimney stack omitted
- Side window in lounge omitted
- Rear garage doors omitted, replaced with window
- 2 no. French doors with sidelights on all rear elevations omitted
- Rear elevations now have one set of bifold doors and 2 no. Full height windows

#### Materials changes

- Walls – Facing Brickwork (was render above brickwork plinth)
- Roofs – (Colour change) Grey roof tiles (was terracotta)
- Windows – (Style change) Casement vent style (was cottage). (Colour change) Anthracite grey UPVC (was white upvc)
- Boundary Treatments
  - Rear – 900mm high close boarded fencing (was 1m high)
  - Separation- 1.8m high close boarded fencing, reducing to 900mm to front (was 2m high reducing to 900mm)

#### Hard Landscaping Changes

- Access Road Tarmac finish with ACO drainage channels (was concrete finish)

#### Soft Landscaping Changes

- Cherry Trees omitted
- Hedging along rear and side boundaries omitted
- Larger front gardens to each plot, laid to lawn
- Laurel hedging plants along front boundary

#### Assessment

The main considerations are:-

- Principle of Development;
- Visual Impact & Form and Character
- Residential Amenity
- Highway Safety

#### Principle of Development

In line with Section 38(6) of the Planning and Compulsory Purchase Act 2014, planning decisions must be taken in accordance with the 'development plan' unless material considerations indicate otherwise. As mentioned above, the site lies outside of the Little Clacton Settlement Development Boundary as defined within the emerging Local Plans. Therefore, in the context of the progress of the emerging Local Plan and the Council's ability to demonstrate a 5 year housing land supply, the residential development of the land is unacceptable in principle.

However, a material planning consideration of significant weight in this instance is the extant permission for 3 dwellings approved and commenced under 18/00330/FUL.

Although the building works that have been carried out thus far are not in accordance with the approved plans, to deem this current application for the same number of dwellings unacceptable in principle would be wholly unreasonable as there is a clear fall-back position of considerable weight for the same number of units. The approval of this application for 3 bungalows does not compromise the Council's spatial strategy for the area and cannot be considered contrary to Saved spatial planning policies or Emerging Policy SPL1. The application is therefore considered acceptable in principle.

## Design and Impact

The development is located between the existing semi-detached houses at the head of the cul-de-sac to the east. The development is well set back and somewhat screen from view by the existing dwellings therefore having minimal street scene impact.

The layout of the site appears broadly similar to the previous approval with the most apparent change in plan form being the spacing between the dwellings and larger front gardens. These amendments have resulted in shallower rear gardens and less spacing between the plots, including plot 1 being sited closer to the donor property at number 3 Edward Close. The removal of the external chimneystacks is unfortunate as these were pleasant design features, However, their removal does not significantly alter the appearance of the development and helps to maintain sufficient spacing between the plots. Side isolation, rear private garden and parking provision all remain in accordance with policy requirements and aims.

The development comprises 3 plots with 2 house types. Plots 1 and 2 both include an attached single garage and Plot 3 is served by parking bays only. This is the same as the previous approval. However, the proposed materials and finishes represent a significant change replacing all previously approved render, weatherboarding and brick detailing. The development will now be finished in red brick, grey roof tiles and grey windows to all 3 plots. The change in materials and loss of detailing has diminished the quality of the development, which again is unfortunate. However, due to the setback siting of the development, these changes will not have a significant impact on the street scene. Grey windows are a popular option for developers at present as they can help achieve a more modern appearance. On balance, the changes are not considered significantly harmful to the quality of the development. As the development would not appear particularly prominent, any visual impact would not result in any material harm to the character or appearance of the locality. The spaciousness and openness of the frontages of the new dwellings contributes positively to the quality of the development. It is therefore considered necessary to remove permitted development right for the erection of fences or enclosures forward to the dwellings.

## Residential Amenities

As previously assessed, the single storey dwellings would provide for an adequate separation distance between habitable room windows of the existing and proposed dwellings, and the relationship between the access drive and parking areas is adequate and will not result in any undue disturbance for the occupants of the existing dwellings. There would be no material loss of privacy or light for the neighbours.

The roof slope and height would be able to accommodate future conversion which could raise concerns with overlooking to the existing neighbouring properties and between the proposed bungalows. Permitted development rights for roof lights and dormer windows have therefore been removed in the interests of residential amenity. Due to the change in layout and reduction in garden sizes, it is also considered necessary to remove permitted development rights for extensions and outbuildings.

## Highways

As previously assessed, the modest scale of the development for 3 dwellings will not generate high traffic flows, and the cul-de-sac and proposed access drive arrangement are adequate in highway safety terms.

The layout plan shows that each dwelling (new and existing) would be served by at least two parking spaces (two have a garage of appropriate dimensions), which is commensurate with the current parking standards.

## Trees and Landscaping

There are no trees or other significant vegetation in the main body of the application site. There are two trees situated within the curtilage of an adjacent property; Strathmore, Tan Lane, Clacton on Sea. Close, close to the boundary with the application site that could be affected by the development proposal. Both trees are Oaks and are shown on the site layout plan. One tree is significantly larger than the other and their branches have coalesced to form a single crown. Both trees make a valuable contribution to the amenity of the locality. The coalesced canopy of the trees overhangs the application site. Both trees are afforded formal legal protection by Tendring District Council Tree Preservation Order 17/11/TPO.

In order to show how the trees on adjacent land will be physically protected for the duration of the construction phase of any development the applicant has provided details of the extent of the Root Protection Areas (RPA's) of the trees. They have also provided information demonstrating how the RPA's will be physically protected for the duration of the construction phase of the development. This information is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction ' Recommendations. Full landscaping details have also been provided all of which will be secured by an appropriately worded condition.

#### 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.

The application scheme proposes a residential development on a site that lies within the Zone of Influence (Zol) being approximately 4,300 metres from the Hamford Water Ramsar, SAC and SPA. New housing development within the Zol would be likely to increase the number of recreational visitors to Hamford Water 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.

#### 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". These sentiments are carried forward within emerging Policy HP5.

There is currently a deficit of 2.22 hectares of equipped play in Little Clacton. Due to the significant lack of play facilities in the area, a contribution towards play is justified and relevant to the planning application. The contribution would be used towards improving facilities at the Parish Playing Fields, Plough Corner.

However, as mentioned above, the extant and commenced fall-back position for the development of the site for 3 dwellings is of particular relevance to the consideration of open space contributions for this current application. The original application was granted at a time when open space contributions were not sought for developments of this size. This fall-back position allowing the development of the site for 3 dwellings with no contributions, means that it would unreasonable to request the open contribution now simply to a change in the layout and design of the scheme.

#### Representations

Little Clacton raise concerns over the development which can be summarised and addressed as follows (officer response in italics);

- There would be limited outdoor space.
- Cramped.  
*The layout of the development, spacing between the plots and garden sizes have all been considered and addressed above.*
- As the local plan and building numbers have been approved we see no reason for this application to be granted.  
*The principle of the development in relation to the 5 year housing land supply numbers has been addressed above.*
- Garages should be retained for parking.  
*To ensure 2 parking spaces are retained for each plot, a condition retaining the garages for parking is considered necessary and reasonable in this instance.*

3 letters of objection have been received. The concerns raised can be summarised as follows (officer response in italics):

- Will add to the congestion, parking and access issues in this narrow private close.  
*This is a matter of principle which has already been established by the existing and previous approvals.*
- Who will be responsible for any damage from heavy construction vehicles?  
*As Edward Close is a private road, not maintained by ECC Highways, all responsibility will be on the joint owners, which will include the future occupants of the new dwellings.*
- Cramped.  
*The layout of the development, spacing between the plots and garden sizes have all been considered and addressed above. The revised layout increases the distance between Plot 3 and the existing neighbouring properties to the east (Tan Lane).*
- Harm to protected trees.  
*The application is accompanied by the necessary information as set out in the main report above.*

### Conclusion

In the absence of any material harm resulting from the amended proposal, the application is recommended for approval subject to conditions. No standard time limit condition is required in this instance as the development has already commenced following approval of 18/00330/FUL.

## **6. Recommendation**

Approval - Full

## **7. Conditions**

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans (including materials details and bin storage):

Site Layout / Block Plan	1.100 Revision A
Elevations / Floor Plans	01 Revision D

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



- 2 Prior to occupation of the dwellings hereby approved, the vehicular parking areas (including garages) and turning areas, as shown on approved drawing 1.100 Revision A shall be provided 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.

- 3 Any vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space and any garage shall have internal dimensions of 3 metres x 7 metres. All parking and garages shall be retained in perpetuity.

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

- 4 Prior to the first occupation of the development, the proposed private drive shall be constructed to a width of 4.1 metres for at least the first 6 metres within the site, tapering one-sided over the next 6 metres to any lesser width and provided with an appropriate dropped kerb crossing of the footway to the satisfaction of the Local Planning Authority.

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

- 5 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on approved Dwg 02 Hard and Soft Landscaping Scheme and the accompanying Planting Scheme And Implementation Programme received on 6<sup>th</sup> March 2021 shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure the adequate implementation and maintenance of the approved landscaping scheme for a period of five years in the interests of the character and quality of the development.

- 6 The development hereby approved shall be carried out in strict accordance with the Tree Protection Plan and Method Statement and tree protection measures contained within the accompanies appendices Reference No. TPSarb3850321 dated 8th March 2021 unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure that the trees to be retained are protected in the interests of visual amenity.

- 7 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, alterations, openings or additions shall be made to the roofs of the dwellings hereby approved except in accordance with drawings showing the design and siting of such features which shall previously have been submitted to and approved, in writing, by the Local Planning Authority upon submission of a planning application.

Reason - In the interests of residential amenity.

- 8 Notwithstanding the provisions of Article 3, Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no provision of fences, walls or other enclosures shall be erected forward of the front elevation of the dwellings hereby approved.

Reason - In the interests of visual amenity and the quality of the development.

- 9 Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A and E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), the dwellings hereby permitted shall not be extended or ancillary buildings or structures erected within the curtilage without the prior written approval of the Local Planning Authority following the submission of a planning application.

Reason – To ensure that adequate private amenity space is retained, in the interests of residential amenity.

## **8. Informatives**

### **Positive and Proactive Statement**

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

### **Legal Agreement Informative - Recreational Impact Mitigation**

This application is the subject of a 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.

### **Building Control Informative**

A fire appliance should be able to get to within 45m of all parts of all dwellings.

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