

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	09/06/2021
Planning Development Manager authorisation:	JJ	09/06/2021
Admin checks / despatch completed	ER	09/06/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	09.06.2021

Application: 21/00027/FUL **Town / Parish:** Little Clacton Parish Council

Applicant: Mr Swain

Address: Land adjacent Grove House St Osyth Road West Little Clacton

Development: Two custom built / self-build dwellings.

1. Town / Parish Council

Little Clacton Parish
Council
03.03.2021

We previously recommend refusal to the previous application 18/01587 as the site falls outside of the settlement area. Not only has this not changed but Tendring now has an agreed Local plan and housing numbers therefore we see no reason to grant planning permission.

2. Consultation Responses

ECC Highways Dept
08.03.2021

The information that was submitted in association with the application has been fully considered by the Highway Authority. Due to the current COVID-19 restrictions no site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated April 2009. It is noted that this application is similar to Planning application; 18/01587/OUT that was approved in 2018; this proposal seeks to amend the format of that scheme with the use of two existing access points from Dead Lane. The lane is a no through road following the construction of the by-pass that also serves vehicular access for Grove House.

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

1. There should be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays for each access shall be provided before the road junction / access is first used by vehicular traffic and retained free of obstruction above 1000mm at all times.

Reason: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety in accordance with policy DM1.

2. Prior to occupation of either dwelling a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of each vehicular access.

Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1.

3. Prior to occupation of either dwelling a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

4. No unbound material shall be used in the surface treatment of either vehicular access within 6 metres of the highway boundary.

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

5. Prior to occupation of either dwelling, each vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 4.5 metres (equivalent to 5 low kerbs), shall be retained at that width for 6 metres within the site.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.

6. Any gates proposed at the vehicular access shall be inward opening only and shall be set back a maximum of 0.5 metres from the back edge of the footway/cycleway or where no provision is present, the carriageway.

Reason: In the interest of highway safety in accordance with policy DM1.

7. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

8. 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.

9. 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.

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

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

11. Prior to commencement of the development, the provision of one informal vehicle passing place shall be provided within Dead Lane north of its junction with St Osyth Road with dimensions:

- Informal passing place: 1.5 metres wide x 8 metres in length (excluding tapers). Details to be agreed in writing with the Local Planning Authority.

Reason: To ensure that vehicles can pass clear of the limits of the highway, in the interests 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: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

SMO1 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

2: The public's rights and ease of passage over public footpath no. 8 (Little Clacton_173) shall be maintained free and unobstructed at all times.

3: 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.

4: The applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway. Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence.

Environment Agency
28.04.2021

As there are no other constraints, this application falls outside of my ability to comment, however I felt this guidance may be of use:

In April 2015 the Development Management Procedure Order (DMPO) Schedule 4 was changed so the Environment Agency is no longer a statutory consultee for non-major development proposing non-mains drainage. This change means it is the LPA's responsibility to ensure proposals for non-mains drainage for non-major development comply with the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) without Environment Agency advice. This advice has been provided to help local planning authorities (LPAs) do this and it is the LPAs choice if they want to use this guidance. This advice can also be used by LPAs for major developments where the Environment Agency locally no longer provides bespoke comments (continued).

Environment Agency
20.05.2021

To confirm our discussion, it appears from a drainage plan included with the documents on the planning portal that there is a foul sewer within 60 metres of the boundary of the proposed development. This may be a private sewer, but recent changes in legislation have meant that many such private sewers have now been adopted by statutory sewerage undertakers. This could therefore now be a public sewer, even if not marked on plans as such.

In the FDA1 form the applicant states that the property is more than 30metres from the nearest public foul sewer, so connection may not be possible. Our guidance/policy states that the figure of 30 metres from a foul sewer should be applied per property. As this application is for a development of two properties, we would therefore expect connection to the foul sewer if one is available within 60 metres. Our Environmental Permitting guidance states that where connection to the foul sewer is possible via a private sewer, written evidence must be provided with a permit application to show that the applicant has requested to connect to the private sewer, along with the written response from the owner of the private sewer. Furthermore, Approved Document H in Building Regulations states the hierarchy for foul water disposal. This states that where connection to a public foul sewer is not reasonably practicable, connection to a private sewer communicating with a public sewer is the next alternative:

Connection to the foul sewer would be a more sustainable and much better environmental option if possible, and if there is a foul sewer available within 60 metres of the development, as it appears there may be, an Environmental Permit for any treated sewage effluent discharge may not be granted. Furthermore, there is a presumption under Building Regulations that connection to the foul sewer would be the preferred option, regardless of whether it is a public or private sewer.

Very little detail has been provided in the application about the package sewage treatment plant to be used or the nature of the proposed receiving water. The developer will need to ensure that any discharge is made to a suitable watercourse that is adequately maintained and free flowing. If the treated effluent does not drain away, it can stagnate and become odorous. If there is a shared sewage treatment plant between two properties, as suggested, a suitable legal agreement will also need to be in place to ensure that the plant is appropriately operated and maintained and

responsibilities are clearly assigned. If not appropriately operated and maintained there is potential for both odour and pollution to occur. The site is on the edge of a built up residential area, with sensitive residential receptors in close proximity.

The developer is therefore strongly encouraged to further investigate connection to the public foul sewer, even if that is via a private sewer.

I would be happy to talk to the applicant direct if they would like further information.

If you would like to discuss this further please call me on 0203 025 8536.

3. Planning History

18/01587/OUT	Erection of 2 custom built/self-build dwellings.	Approved	21.12.2018
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4. Relevant Policies / Government Guidance

National Planning Policy Framework 2019

National Planning Practice Guidance

Adopted Tendring District Local Plan (2007) (part superseded)

QL11 Environmental Impacts and Compatibility of Uses (superseded in part)

QL12 Planning Obligations

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

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

COM19 Contaminated Land

COM31a Sewerage and Sewerage Disposal

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP3 Spatial Strategy for North Essex

SP4	Meeting Housing Needs
SP7	Place Shaping Principles
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP5	Open Space, Sports and Recreational Facilities
LP4	Housing Layout
LP7	Self-Build and Custom-Built Homes
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
CP1	Sustainable Transport and Accessibility

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 application relates to a parcel of land on the corner of St Osyth Road and Dead Lane, Little Clacton. The site extends approximately 0.23 hectares in size and comprises a mown pasture enclosed with a significant belt of trees on all boundaries, with the exception of a vehicular access to the land from Dead Lane.

The site lies outside the settlement development boundary for the area as defined within both the adopted and emerging local plans.

Description of Development

The application seeks full planning permission for the erection of 2 no. custom built/self-build dwellings with detached double garages accessed via Dead Lane off St Osyth Road West.

Planning History

Outline planning permission has been granted for two dwellings on this site with access obtained from a single gated entrance fronting Dead Lane, close to the junction with St Osyth Road West. This proposal seeks to amend the format of that scheme with the use of two existing access points from Dead Lane. As a result, a full application is now submitted rather than Reserved Matters. The red line site area is also slightly smaller than that of the outline planning application but this does not materially alter the proposal.

The red line site plan submitted with the outline application (all matters reserved) also showed a blue lined area (land within the ownership of the applicant). This encompassed the remainder of the site up to the perimeter of the natural boundaries adjoining Grove House and 150 St Osyth Road with the view of avoiding the existing established line of trees which are to remain. The application included an indicative layout plan, which is different to the layout now proposed as a result of the additional access.

Assessment

The main considerations in this instance are:

- Principle of Development;
- Layout, Scale, Character and Impact;
- Self Build/Custom Build Dwellings;
- Residential Amenities;
- Highway Safety and Parking;
- Trees and Landscaping;
- Financial Contribution – Recreational Disturbance;
- Financial Contribution – Open Space and Play Space;
- Contaminated Land;
- Foul Drainage; and;
- Representations.

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 adopted or 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 particular relevance in this instance is the extant permission for 2 dwellings on the site approved under application reference 18/01587/OUT. The application was approved on 21.12.2018 and through the submission of a reserved matters application could be implemented.

To deem this current application for the same number of dwellings unacceptable in principle due to the addition of a separate, existing access would be wholly unreasonable as there is a clear fall-back position for the same number of units and a new access would not require separate planning permission as this does not connect to a classified road. The approval of this application for 2 dwellings does not compromise the Council's spatial strategy for the area and cannot be considered contrary to policy as it essentially replaces the previous permission.

The application is therefore considered acceptable in principle.

Scale, Layout, Character and Impact

Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context, and to protect the district's landscape and the quality of existing places and their environs. Emerging Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout, create a unique sense of place – avoiding the use of ubiquitous standard house types. Paragraph 127 of the Framework requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

The application site is not isolated in nature being bounded by residential development to the north and east having no detrimental impact upon the landscape character. The proposal would physically and visually appear part of the existing built-up area and would not result in any wider landscape harm. Within its context, the proposal would be environmentally sustainable.

The residential character to the east and south is of a linear arrangement. However, the proposal will front and address Dead Lane and will not appear as a continuation of the linear dwellings along St Osyth Road. Their spacious and angled siting are considered to respond appropriately to the siting of Grove House to the north. Furthermore, the development will be screened from St Osyth Road West by mature, dense trees and vegetation.

The site can accommodate 2 detached dwellings, appearing spacious and achieving ample parking and private amenity areas.

There is a public right of way opposite to the site to the west. Again, due to the dense mature trees and hedgerows screening the site, the development will not be visually harmful.

Self Build/Custom Build Dwellings

Reference is made within the application to the development comprising custom built/self-build dwelling. Policy LP7 of the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) therefore becomes a material consideration. However, this is a new policy with no equivalent saved policy within the adopted Local Plan. The NPPF is silent on policies relating directly to self-build or custom-built dwellings.

Whilst the emerging Local Plan is progressing well, Draft Policy LP7 has not yet been scrutinised by the Planning Inspectorate by an appeal or through the Local Plan process. It can therefore only be given very limited weight. Other policies such as Draft Policy SPL1 have been endorsed by the Planning Inspector as being in line with the NPPF.

The National Planning Policy Guidance tells us that The Self-build and Custom Housebuilding Act 2015 requires each relevant authority to keep a register of individuals and associations of individuals who are seeking to acquire serviced plots of land in the authority's area in order to build houses for those individuals to occupy as homes (referred to in the guidance as self-build and custom housebuilding registers). The guidance accompanies the Self-build and Custom Housebuilding (Register) Regulations 2016 made under the Act.

Section 2(1) of the Self-build and Custom Housebuilding Act 2015 places a duty on relevant bodies to have regard to each self-build and custom housebuilding register that relates to their area when carrying out their plan-making and decision-taking functions. The registers that relate to their area may be a material consideration in decision-taking. Plan-making functions should use their evidence on demand for this form of housing from the registers that relate to their area in developing their Local Plan and associated documents.

Regardless of the merits of the application in relation to this policy, the status of Draft Policy LP7 means that a decision based on this policy is not required at this time.

Residential Amenities

Adopted Policy SP7 of the 2013-33 Local Plan, amongst other things, requires that the amenity of existing and future residents is protected. Saved 2007 Local Plan Policy QL11 requires that all new developments should be compatible with adjoining land uses. Paragraph 127 f) of the Framework requires that planning decisions should create places with a high standard of amenity for existing and future users.

Sufficient space is available on site to provide a development of 2 detached dwellings that will achieve an internal layout and separation distances that would not detract from the amenities of any nearby dwellings or the future occupiers of the proposed dwellings.

Whilst it is recognised that the development includes first floor windows that face toward the existing private amenity space of 150 St Osyth Road, the dwellings are positioned toward the far end of the adjacent garden and are sited a considerable distance from the shared boundary which is densely planted. The windows serve bedrooms or bathrooms and no harmful overlooking or material loss of privacy will result from the development.

The red line site plan and layout plan originally submitted did not correspond (no individual plot boundary lines and clear site extent). Amended plans have now been received essentially overlaying the site area shown on the red lined site plan onto the block plan / layout plan. The red line and blue line areas are very similar to that shown on the outline planning application (although the layout is quite different). Additional information received from the agent via email on 07.06.2021 explains that strip of blue lined land to the north and east of the site features many mature trees, which are to be

retained. This area will therefore not be 'useable' garden space but will ultimately form part of the curtilage of each dwelling and will not feature any boundary enclosures. The private amenity areas for both plots up to the red lined site area are in excess of the standards set out within Saved Policy HG9 of the adopted Local Plan. The proposed development is therefore acceptable in this regard.

Highway Safety and Parking

Sufficient space is available on site to provide a development that will achieve parking in excess of the requirements the Essex County Council Parking Standards.

It is noted that this application follows approval of 18/01587/OUT. This proposal seeks to amend the format of that scheme with the use of two existing access points from Dead Lane. The lane is a no through road following the construction of the by-pass that also serves vehicular access for Grove House. The traffic movements associated with 2 additional dwellings will not cause undue harm to highway and pedestrian safety. The Highway Authority therefore raise no objection to the development subject to conditions which will be imposed where necessary.

Trees and Landscaping

The application site is set to grass with the surrounding land being well populated with a wide range of tree species of a mixed age range. The trees are significant features in their setting and make a positive contribution to the amenities of the locality

The position of the proposed dwellings is such that the trees on the application site and on land adjacent to the application site are not threatened by the development proposal.

As the retention and viability of trees is not affected by the development proposal therefore it is not considered expedient to make any of them the subject of a Tree Preservation Order.

As the site benefits from a good level of screening any new soft landscaping should aim to strengthen low level planting to improve screening and general enhancement of the appearance of the development. Details of soft landscaping will be secured by a 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 on a site that lies within the Zone of Influence (Zol) being approximately 4500 metres from the Colne Estuary SPA and RAMSAR and Essex Estuaries SAC. New housing development within the Zol would be likely to increase the number of recreational visitors to these designated 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 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

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

There is currently a deficit of 2.22 hectares of equipped play in Little Clacton. There is one play area in the village which is located along London Road. This play area is designated a Local Equipped Area for Play, but is limited in size. Although there is a deficit of play space in Little Clacton, it is unlikely that this development would impact this play area.

A completed unilateral undertaking has been provided to secure this financial obligation.

Contaminated Land

Paragraph 170 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by remediating and mitigating contaminated land, where appropriate.

Given the proposal and the development site's proximity to several pieces of registered, historic contaminated land, one of which is located less than 100m from the site, Environmental Protection are requesting a Phase One risk assessment in the form of a desktop study/site walkover report is to take place to protect the health of site workers and end users. If necessary, this shall be followed up by a 'phase two' risk assessment that shall incorporate a detailed intrusive investigation referring to the phase one study.

Furthermore, Environmental Protection recommend a condition controlling delivery and construction working times in order to minimise potential nuisance caused by demolition/construction works.

The necessary conditions will be added.

Foul Drainage

Saved Policy COM31a of the adopted Local Plan states that satisfactory provision must be made for the proper disposal of sewage waste and effluent from new development to avoid the risk of environmental problems. These requirements are carried forward through Policy PPL5 of Section 2 of the emerging Local Plan which states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.

Paragraph 170 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 180 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

As originally submitted, the application form accompanying the application stated that the development would be connected to the existing public foul sewer. A representation from a local resident highlighted that the development site is too far from the existing sewer for this to be possible. Additional information has been received from the agent on this matter, both on 3rd March and 7th April 2021, confirming that the details provided on the original application form are incorrect and that the development will in fact be served by a package treatment plant.

Paragraph: 020 of the National Planning Policy Guidance states that where a connection to a public sewage treatment plant is not feasible a package sewage treatment plant can be considered. The package sewage treatment plant must comply with the Small sewage discharges in England: general binding rules 2015 (GBR), or a permit will be required. Package sewage treatment plants may only be considered if it can be clearly demonstrated by the applicant that discharging into a public sewer is not feasible (taking into account cost and/or practicability and whether the package treatment plant poses a risk to a designated site) in accordance with Approved Document H of the Building Regulations 2010. A completed Foul Drainage Assessment Form 1 (FDA1) form, or equivalent information, should accompany all planning applications where use of a non-mains system is proposed for foul drainage. The operation of small sewage discharges such as those from septic

tanks or package treatment plants is regulated under the Environmental Permitting Regulations 2016 (EPR).

A FDA1 form was received on 26th April 2021 detailing the package treatment plant. The FDA1 form confirms that it is not feasible to connect to the public foul sewer as at the shortest point it is over 90 metres (as confirmed by accompanying plan showing the nearest public foul sewer connection point). Therefore, consideration can be given to a package treatment plant having regard to the GBR. The proposal can be summarised as follows:

- System will discharge solely to a watercourse
- System will be located at least 7m from the habitable part of a building
- Vehicular access for emptying within 30m is possible
- The system can be maintained or emptied without the contents being taken through a dwelling
- Maintenance of the system will be via a Contract with Mantair Ltd
- Estimated total flow in litres per day is 1200

However, the system does not meet the requirements of the General Binding Rules Rule 19:

Make sure the surface water has flow (rule 19)

You cannot meet the general binding rules if you have a new discharge to:

- a ditch or a surface water that does not contain flowing water throughout the year, unless there is a drought or an unusually long period of dry weather
- watercourses that seasonally dry up

The FDA1 form provided confirms that the ditch does not always have flow throughout the whole year and therefore an Environmental Permit is required. The EA permit has been applied for.

However, having discussed the matter further with the Environment Agency it would appear that there is an existing drainage system within 60 metres of the site (which therefore meets the requirements). It is therefore likely that the existing permit application will be refused as there is a preferred, existing system to serve the development. An informative will be added to the decision to strongly encourage the applicant to further investigate connection to the public foul sewer, even if that is via a private sewer.

As this is a separate process and approval route controlled by the Environment Agency, it would be unreasonable to hold back the granting of this planning application until the permit is approved. An informative will be added to the decision notice to cover the permit requirements and potential need for further planning permission for the package treatment plant works/structure. If the package treatment plant works require an amendment to the approved plans subject of this planning application, a S73 variation application can be made.

Representations

Little Clacton Parish Council objects to this planning application on the grounds that the application site falls outside of the settlement boundary (officer response in italics):

The principle of the development, its layout and impact have all been addressed in the main report above.

1 letter of representation has been received. The comments can be summarised as follows (officer response in italics):

- It is unclear how the proposal will connect to the existing sewer as this is in excess of 30 metres from the site and only extended to 136 St Osyth Road West (according to Anglian Water (digdat) records).

Drainage is addressed in the main report above.

Conclusion

Having regard to the extant permission on the site and capacity to develop the site for 2 dwellings through the approval of a reserved matters application, the approval of this full planning permission for 2 dwellings within the same site will not undermine the Council's ability to manage growth through the plan-led approach. For the reasons set out above, the proposed development is acceptable in all other regards. Accordingly, the application is recommended for approval subject to conditions.

6. Recommendation

Approval - Full

7. Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing no SGH-01 Plot 1 Revision A - Block Plan, Floor Plans and Elevations (including garage details)

Drawing no SGH-02 Revision A Plot 2 - Block Plan, Floor Plans and Elevations (including garage details)

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

- 3 Prior to the commencement of any above ground works, precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in the construction of the development hereby permitted shall be submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - Materials are a visually essential requirement to ensure a quality development and insufficient information has been provided within the application.

- 4 No above ground works shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include all boundary treatments and any changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837:2012 Trees in relation to design, demolition and construction."

Reason - In order to enhance and soften the appearance of the development in the interests of visual amenity and the quality of the development.

- 5 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details 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 appropriate implementation of the approved landscaping scheme in the interests of visual amenity and the quality of the development.

- 6 Notwithstanding the provisions of Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no outbuildings, enclosures, swimming or other pools shall be erected except in complete accordance with details which shall previously have been approved, in writing, by the Local Planning Authority following the submission of a planning application for such development.

Reason - In order to control development in the interests of visual amenity in this edge of settlement location.

- 7 No above ground level works shall take place until precise details of the provision, siting, design and materials of screen walls and fences have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the occupation of the development and thereafter be retained in the approved form unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure that the development is appropriate within its setting as insufficient details have been provided with the application.

- 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 means of enclosures shall be erected forward of the front elevation of the dwellings or along the southern boundary of the site.

Reason - In the interests of visual amenity.

- 9 There should be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays for each access shall be provided before the road junction / access is first used by vehicular traffic and retained free of obstruction above 1000mm at all times.

Reason - To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety.

- 10 Prior to occupation of either dwelling a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of each vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason - To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

- 11 No unbound material shall be used in the surface treatment of either vehicular access within 6 metres of the highway boundary.

Reason - To avoid displacement of loose material onto the highway in the interests of highway safety.

- 12 Prior to occupation of either dwelling, each vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 4.5 metres (equivalent to 5 low kerbs), shall be retained at that width for 6 metres within the site.

Reason - To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.

- 13 Any gates proposed at the vehicular access shall be inward opening only and shall be set back a maximum of 0.5 metres from the back edge of the footway/cycleway or where no provision is present, the carriageway.

Reason - In the interests of highway safety.

- 14 There shall be no discharge of surface water onto the Highway.

Reason - To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

- 15 The removal of any vegetation shall only be carried out outside of the bird nesting season (March to August inclusive).

Reason - To ensure the protection of birds potentially nesting on site.

- 16 Prior to the occupation of the development, the provision of one informal vehicle passing place shall be provided within Dead Lane north of its junction with St Osyth Road with dimensions of 1.5 metres wide x 8 metres in length (excluding tapers), details of which shall be agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - To ensure that vehicles can pass clear of the limits of the highway, in the interests of highway safety.

- 17 Prior to any above ground works taking place, a Phase One risk assessment in the form of a desktop study/site walkover report shall take place. This must include a review of previous investigations; previous uses; potential sources of contamination; and potential pathways and receptors. If necessary, this shall be followed up by a 'phase two' risk assessment that shall incorporate a detailed intrusive investigation referring to the phase one study. Individual risk assessments shall be submitted in writing for approval by the Local Planning Authority.

Reason - To protect the health of site workers and end users given the proposal and the development sites proximity to several pieces of registered, historic contaminated land, one of which is located less than 100m from the site.

- 18 In order to minimise potential nuisance caused by demolition/construction works:

- No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.
- No materials produced as a result of the site development or clearance shall be burned on site.

Reason - Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

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.

Highways Informatives

1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

SMO1 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

2: The public's rights and ease of passage over public footpath no. 8 (Little Clacton_173) shall be maintained free and unobstructed at all times.

3: 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.

4: The applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway. Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence.

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

Foul Drainage and Environmental Permit Requirements

The proposed development is to be served by a package treatment plant facility for foul drainage. As set out within the Foul Drainage Assessment Form 1 (FDA1) accompanying the application, the proposal fails to comply with Rule 19 of the Small sewage discharges in England: general binding rules 2015 and an Environmental Permit is required. However, having discussed the matter further with the Environment Agency it would appear that there is an existing drainage system within 60 metres of the site (which therefore meets the requirements). It is therefore likely that the existing permit application will be refused as there is a preferred, existing system to serve the development. You are strongly encouraged to further investigate connection to the public foul sewer, even if that is via a private sewer. Please contact Michael Neale Team Leader – Essex Land & Water Team on telephone number 0203 025 8536.

Please note that any operational development or the erection of structures or outbuildings required to facilitate a proposed package treatment plant (if needed) may require separate planning permission. Furthermore, if the agreed drainage alters the approved plans attached to this permission in any way, a variation application may be required.

Extent of Garden

Please note that the extent of the private garden land serving the dwellings comprises the red lined site area only. Should the current owner or future occupants of either plot wish to extend the size of the garden size into any part of the land shown outlined in blue, a planning application for a change of use of the land to residential curtilage will be required.

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