

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	1 <sup>st</sup> June 2021
Planning Development Manager authorisation:	SCE	09.06.2021
Admin checks / despatch completed	DB	10.06.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	10.06.2021

**Application:** 21/00043/DETAIL                      **Town / Parish:** St Osyth Parish Council

**Applicant:** Mr Irving Harris

**Address:** Land at rear of 98 Point Clear Road St Osyth Clacton On Sea

**Development:** Reserved matters for 17/01079/OUT for proposed erection of 2 no. detached single storey bungalows with associated garaging and parking.

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

Parish Clerk  
St Osyth Parish Council      No objections.  
19.03.2021

### **2. Consultation Responses**

UU Open Spaces                      No further comments from Open Spaces.  
05.03.2021

ECC Highways Dept                      From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions.

Tree & Landscape Officer                      No trees or other significant vegetation will be adversely affected by the development proposal.  
26.02.2021

### **3. Planning History**

01/00513/FUL                      Single storey rear extension to form games room with bathroom                      Approved                      08.06.2001

01/01491/FUL                      Subdivision of existing bungalow to form a pair of 2 bedroom semi detached bungalows                      Refused                      12.10.2001

95/00527/FUL                      Demolition of existing bungalow, erection of two detached chalet style dwellings - (renewal of planning approval TEN/1835/89)                      Approved                      13.06.1995

02/02045/FUL                      Demolition of existing bungalow and erection of a pair of detached 3 bedroomed chalet bungalows                      Refused                      10.12.2002

17/00979/DISCON                      Discharge of conditions 03 (landscaping) and 10 (construction method statement) of planning permission 16/01869/FUL.                      Approved                      16.08.2017

17/01079/OUT	Proposed erection of 3 no. detached single storey bungalows with associated garaging and parking, following demolition of existing dwelling.	Refused	25.08.2017
19/01506/FUL	Proposed demolition of existing bungalow, and erection of 2 No. two storey dwellings.	Approved	17.02.2020
20/00325/FUL	Proposed erection of a single storey 2 bedroom dwelling.	Refused	05.06.2020
20/01112/FUL	New driveway access to plot 1 and 2.	Approved	10.11.2020
20/01278/FUL	Proposed variation of condition 2 of approval 19/01506/FUL to reflect various material alterations.	Approved	12.11.2020
20/01296/DISCON	Discharge of condition 4 (vehicular turning) of approval 19/01506/FUL (duplicated on 20/01278/FUL)	Approved	17.11.2020
21/00043/DETAIL	Reserved matters for 17/01079/OUT for proposed erection of 2 no. detached single storey bungalows with associated garaging and parking.	Current	

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

*NPPF National Planning Policy Framework February 2019*

*National Planning Practice Guidance*

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

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) (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

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 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**

### Site Description

The site is on the north side of Point Clear Road in St. Osyth, at the eastern end of the ribbon development and close to the junction with Wigboro Wick Lane where the road turns sharply to the north to form the boundary between St. Osyth Creek and Mill Dam Lake. The site area is approximately 0.15 hectares and it is currently the rear garden of a detached bungalow. The whole of the site is currently in residential use and is raised above the level of the street.

Immediately to the west is a row of four 1 ½ storey detached houses, sitting relatively close together and creating a homogenous edge to the street. On the opposite side of the road, there is a much greater range of building types, with the end of the ribbon development formed by (from east to west) a 1 ½ storey house, a bungalow and a two storey house. The character of Point Clear Road is created by the eclectic mix of different building styles and heights, reflecting its organic growth and creating an element of plotland character, which is emphasised by the pair of detached, two storey houses that have recently been completed on the land immediately to the east of the site. Finished in contemporary materials (timber and render), they present a narrow frontage.

The site is currently part of the garden to a detached bungalow that is set back from the street behind a landscaped front garden and a gravelled parking area, positioned broadly in accordance with the building line on the north side of the street. The whole of the curtilage of the property was granted outline planning permission for the demolition of the bungalow and the creation of three detached bungalows in October 2018 (reference 17/01079/OUT), although a separate planning permission was granted for the bungalow to be replaced by a pair of detached houses in broadly the same position in February 2020 (reference 17/01079/OUT), with a new access to the land at the rear approved in November 2020 (reference 20/01112/FUL). This submission of the reserved matters seeks to implement the remaining part of the outline planning permission, using the new access road so that the site is not "land-locked", but otherwise broadly following the form of the masterplan that was submitted as part of the application for outline planning permission. A traditional appearance is proposed for the two new bungalows, in keeping with the character of the bungalows that can be found along the length of Point Clear Road.

### Description of Proposal

Although application 17/01079/OUT reserved all matters for later consideration, the suggested layout is closely reflected now with Plot 1 being to the north/west boundary and Plot 2 to the north/east boundary. The development is accessed as per approved application 20/01112/FUL (being sited to the west of No. 106). The two dwellings are both single-storey bungalows; Plot 1's entrance faces west and Plot 2's faces south – each dwelling is provided with a double garage and off-street parking. Externally the dwellings would be finished in red multi brick, black weatherboarding and have a slate-grey plain tiled roof. In regards to the build parameters, the dwellings are similar in ridge heights (Plot 1; 6m, Plot 2; 5.6m) have eaves of the same height (2.9m) and similar footprints (Plot 1; 101sqm, Plot 2; 106sqm). Plot 1 is a three-bedroom dwelling and Plot 2 is a one-bedroom (with provision for a separate study/home office).

### Relevant History

There have been a number of applications on the land around No. 98 Point Clear Road, dating as far back as 1989 for two dwellings fronting Point Clear Road.

Planning reference 17/01079/OUT was the first one approved for developing the parcel of land to the rear. Both the description and the supporting documentation sought outline permission for three dwellings following demolition of the existing dwelling; one dwelling was proposed in roughly the same location as the existing dwelling, with the other two dwellings located to the rear.

Subsequent applications have since been approved for the re-development of the land where the original house stood and the site is now fully developed with two new dwellings; for this reason aspects of the proposed site layout for 17/01079/OUT overlap with approvals 16/01869/FUL, 19/01506/FUL and 20/01278/FUL.

### Assessment

The main planning considerations are:

- Principle of Development;
- Layout, Scale and Appearance;
- Neighbouring Amenities;
- Highway Considerations;
- Financial Contributions - RAMS;
- Financial Contributions - COM6;
- Representations; and,
- Other Considerations.

Principle of Development:

The principle of the development has been accepted by reason of application 17/01079/OUT being allowed on appeal 18<sup>th</sup> October 2018.

Layout, Scale and Appearance:

The Government 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) as stated at paragraph 130 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 SP7 reflects these considerations.

The dwellings make effective use of the space available with the Inspector concluding that he could see no reason why 2 additional, single storey dwellings and a replacement for the existing

bungalow could not be appropriately designed and accommodated on the site. He went on to add that there is enough space so any future scheme is unlikely to result in a hard urban edge or an unacceptable urbanisation of the site. For these reasons the development is in-keeping with the character of the wider streetscene in general.

#### Amenities of Existing & Future Occupiers:

The NPPF, at paragraph 127 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 SP7 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Plot 1 is sited in the region of 45m from the rear elevation of the closest property to the west (and around 30m from the rear boundary of their garden) – similar separation distances would exist to Plot 1 and the rear elevations of the new dwellings 98a and 98b. Similar separation as exists would result between the south-facing front elevation of Plot 2 and the rear elevations of the new dwellings constructed to the east of what was No. 98.

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" comprises 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 three or more bedroom house - a minimum of 100 square metres; two bedroom house - a minimum of 75 square metres; one bedroom house - a minimum of 50 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 dwellings would have sufficient private amenity space available as if they were both three-bedroom properties.

Overall the proposal is considered to secure a good standard of amenity for all existing and future occupants of land and buildings

#### 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 SP7 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The Council's current Parking Standards require that for dwellings with 3 bedrooms a minimum of 2 parking spaces be provided per unit. 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 Highways Authority has no objection to the proposal and access to the site has been approved historically.

#### 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 two new dwellings on a site that lies within the Zone of Influence (Zol) being approximately 389m from Colne Estuary (Mid-Essex Coast Phase 2) SPA and Ramsar. Since the development is for two dwellings only, the number of additional recreational visitors would be limited and the likely effects on Colne Estuary 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 Colne Estuary; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A 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 SP2 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:

St Osyth Parish Council has no objections.

### Conclusion

For the reasons set out above, the proposal is considered to represent a sustainable form of development in a location supported by national and local plan policy that will not result in any material environmental or residential harm that warrants refusal of planning permission.

## **6. Recommendation**

Approval - Reserved Matters/Detailed

## **7. Conditions**

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: 1552/P3/03, 1552/P3/04 and 1552/P3/06; received 4th January 2021.

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

- 2 Prior to the occupation of the dwelling the internal layout shall be provided in principal with drawing number Drawing: 1552/P3/03 (Proposed Block plan).

Reason - To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety.

- 3 The dwelling shall not be occupied until such time as a car parking has been provided in principal with drawing 1552/P3/03. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and/or turning of vehicles related to the use of the development thereafter.

Reason - To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 4 No unbound material shall be used in the surface treatment of the vehicular access or private drive throughout.

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

- 5 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 free of charge.

Reason - In the interests of reducing the need to travel by car and promoting sustainable development and transport.

- 6 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.

- 7 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.

- 8 All double garages should have a minimum internal measurement of 7m x 5.5m.

Reason - To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety.

## **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:-**

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](mailto:development.management@essexhighways.org) or by post to:

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

As access to the proposed dwelling will be via a private track, the applicant should therefore be requested to demonstrate that rights of pass and repass to the proposed development site exist in perpetuity and that the applicant also has the necessary permissions to make a vehicular connection via this track.

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.

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.

Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

<b>Are there any letters to be sent to applicant / agent with the decision?</b>		NO
<b>Are there any third parties to be informed of the decision?</b>		NO