

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	BO'B	22/10/2021
Planning Development Manager authorisation:	JJ	22/10/2021
Admin checks / despatch completed	CC	22.10
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	22/10/2021

Application: 21/01696/NMA **Town / Parish:** St Osyth Parish Council

Applicant: Gary Jordan - Earl Wood Properties

Address: Land West of The Coach House 110 Colchester Road St Osyth

Development: Non-material amendment to permission 19/00929/FUL, sought to change materials from red tiles to a natural grey slate, stating bricks being used on project.

1. Parish Council

St Osyth Parish Council

Not consulted NMA application.

2. Consultation Responses

Essex County Council
Heritage

ECC Place Services were consulted on this application, the site being in a prominent location within a designated heritage asset, the St Osyth Conservation Area. In summary, the heritage comments state that the proposed changes to approved materials (red brick and red clay tiles) to the use of a stretcher bond with the multi coloured buff brick and slate roof tiles are unacceptable.

3. Planning History

19/30019/PREAPP	Proposed residential development to include 4no. 3 bedroom semi-detached houses and 1no. 1.5 storey chalet bungalow.	Refused	12.03.2019
19/00929/FUL	Proposed residential development comprising of 2 detached 1.5 storey dwellings.	Approved	17.01.2020
21/01554/DISCON	Discharge of condition 10 (Archaeological Evaluation) of application 19/00929/FUL.	Current	
21/01696/NMA	Non-material amendment to permission 19/00929/FUL, sought to change materials from red tiles to a natural grey slate, stating bricks being used on project.	Current	

4. Relevant Policies / Government Legislation/Guidance

In October 2009 a new provision under Section 96A of the Town and Country Planning Act came into force allowing a Local Planning Authority, on application, to make a change to any planning permission if it is satisfied that the amendment proposed is non-material.

The key test as to the acceptability of an application for a non-material change is whether the change is material to any development plan policy

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

EN17 Conservation Areas

EN23 Development Within the Proximity of a Listed Building

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

SPL1 Managing Growth

SPL3 Sustainable Design

PPL8 Conservation Areas

PPL9 Listed Buildings

Local Planning Guidance

Essex Design Guide

Status of the Local Plan

Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).

The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.

Paragraph 48 of the Framework 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 the policies of the Framework. In this regard 'Proposed

Modifications' to the emerging Section 2 of the 2013-33 Local Plan, which contains more specific policies and proposals for Tendring, has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29th June 2021. The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16th July 2021. The consultation closed at 5pm on 31st August 2021 and adoption is expected later this year. Section 2 will then join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.

5. Officer Appraisal

From 1st October 2009 a new provision under Section 96A of the Town and Country Planning Act came into force allowing a Local Planning Authority, on application, to make a change to any planning permission if it is satisfied that the amendment proposed is non-material.

The key test as to the acceptability of an application for a non-material change is whether the change is material to any development plan policy. If the answer is 'no', three further tests should be applied

1. Is the proposed significant in terms of its scale (magnitude, degree etc.), in relation to the original approval?
2. Would the proposed change result in a detrimental impact either visually or in terms of amenity?
3. Would the interests of any third party or body who participated in or were informed of the original decision be disadvantaged in any way?

Site Description

The site lies within the St Osyth Settlement Development Boundary as defined by both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-33 and Beyond Publication Draft 2017.

The site occupies a prominent position on a junction of two major roads within the St Osyth Conservation Area. Saved Policy EN17 of the adopted Tendring District Local Plan 2007 and Policy PPL8 of the emerging Tendring District Local Plan 2013-33 state that development within Conservation Areas should preserve or enhance the character and appearance of the Conservation Area.

Proposal

The proposal comprises two amendments to approved planning application 19/00929/FUL for 2 detached 1.5 storey dwellings. The submitted and approved documents for application 19/00929/FUL clearly show the proposed development to have external materials of red plain tiles to the roofs and red bricks to the walls. The non-material amendment suggests a change in both of the approved materials to:

- (a) Natural grey slate tiles to the roof
- (b) Blackwall yellow antique bricks to the walls in a multi-colour with a stretcher bond.

Assessment

It is considered that the proposed changes to external materials would materially alter the character and appearance of the approved dwellinghouses. Therefore, the proposed amendments would go to the heart of the planning decision in terms of the design of the approved dwellinghouses, particularly as the development is set within the St Osyth Conservation Area, on a prominent plot, where the appearance of the development is fundamentally important and sensitive.

As such, to assess the suitability and the impacts of the proposed amendments, it is considered that a consultation process is needed to allow comments to be obtained from statutory consultees, the Parish Council and neighbours in adjoining properties.

Conclusion

In this instance, it is considered that the proposed amendments are material and therefore not acceptable to be determined as a non-material amendment to the approved plans attached to approve planning application 19/00929/FUL. Therefore, should the applicant wish to amend the plans, then a new planning application in the form of a Section 73 (Variation to an Approved Application) or a full planning application would be required.

6. Recommendation

Refusal Non Material Amendment

7. Reasons for Refusal

The proposed amendments to the approved external finishes are considered to be a material change, due to the potential impact on the character and appearance of the approved dwellings and the St Osyth conservation area. Therefore a formal planning application is required to fully assess the amended design and to consult statutory consultees and neighbouring properties.

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