

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	4 th Jan 2022
Planning Development Manager authorisation:	SCE	07.01.2022
Admin checks / despatch completed	DB	14.01.2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	14/01/2022

Application: 21/01727/VOC **Town / Parish:** Clacton Non Parished
Applicant: Mr M Crabb
Address: Land to The rear of 6 Orchard Close Clacton On Sea
Development: Variation of conditions 2 (approved plans) of permission 19/01815/FUL to enlarge current proposed bungalow and have room within the roof.

1. Town / Parish Council

Not applicable

2. Consultation Responses

UU Open Spaces 23.12.2021 No further comments from Open Spaces.

3. Planning History

19/01815/FUL	Proposed construction of a three bedroom bungalow, including demolition of existing garage.	Approved	23.01.2020
21/01727/VOC	Variation of conditions 2 (approved plans) and 3 (roof) of permission 19/01815/FUL to enlarge current proposed bungalow and have room within the roof.	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

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

Relevant Section 1 Policies (adopted):-

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

Relevant Section 2 Policies (emerging):-

SPL1 Managing Growth

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

LP8 Backland Residential Development

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

Adopted Tendring District Local Plan 2007 (part superseded)

COM6 Provision of Recreational Open Space for New Residential Development

HG9 Private Amenity Space

HG13 Backland Residential Development

HG14 Side Isolation

EN11A Protection of International Sites European Sites and RAMSAR Sites

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Local Planning Guidance

Essex Design Guide

Essex County Council Development Management Policies 2011 (the Highways SPD)

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. On 24th November 2021, the Council received the Planning Inspectors' final report on the legal compliance and soundness of Section 2 of the emerging Local Plan. The report has confirmed, that with the inclusion of a number of 'Main Modifications' (which have already been the subject of formal public consultation), the Plan is legally compliant and sound and can now proceed to adoption. The report is due to be considered by the Planning Policy and Local Plan Committee on 11th January 2022 which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25th January 2022. On adoption, the new Section 2 Local Plan will join the new Section 1 Local Plan to form the 'development plan' for Tendring and the old 2007 Local Plan will be superseded in full.

Now that the Inspectors' final report is received, the Section 2 Local Plan has virtually reached the final stage of preparation, all objections have been resolved and the Inspector has confirmed that the Plan is sound and therefore in conformity with the Framework. For these reasons, Officers now advise that the emerging Plan should now carry 'almost full weight' in decision making.

Until the new Local Plan is adopted in January 2022, the 2007 adopted Local Plan, legally, will still form part of the 'development plan' and there will still be a requirement to refer to the 2007 Local Plan in decision making. However, the level of weight to be afforded to the policies in the 2007 Plan is reduced to very limited weight given that a more up to date Plan has progressed to such an advanced stage of the plan making process.

In relation to housing supply:

The Framework requires Councils 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, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, the 'tilted balance' at paragraph 11 d) ii) of the Framework is engaged. This requires applications for housing development be granted permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Following the adoption of Section 1 of the 2013-33 Local Plan and the Council's 'Objectively Assessed housing Need' of 550 dwellings per annum there is no housing shortfall. The Council is able to report a comfortable surplus of housing land supply over the 5 year requirement. The 'tilted balance' at paragraph 11 d) ii) of the Framework does not therefore apply to applications for housing.

5. Officer Appraisal

Site Description

The site lies on land within the development boundary of Clacton in the rear garden of an existing residential dwelling. The existing property at 6 Orchard Close stands in a plot of land amounting to approximately 1457sqm indicating sufficient land, in principle, to accommodate a new dwelling, gardens for two properties and ancillary parking and turning land.

Orchard Close is a residential *cui de sac* comprising 6 dwellings. Orchard Close is accessed from the south side of St John's Road.

Number 6 Orchard Close is accessed from the turning head at the end of the *cui de sac*. The dwelling has ample parking with turning provision in front of the house which could therefore be retained for use by 6 Orchard Close.

The development, approved under 19/01815/FUL has commenced.

Proposal

The application proposes seeking amendments to the height of the dwelling approved under application 19/01815/FUL. The single storey bungalow would be sited in the south corner of the rear garden of the donor dwelling. Separation distances to the east boundary are approximately 1.5m, to the south are just over 5m and to the west boundary are approximately 3.5m; this marginal off-setting is the most beneficial siting as it provides the greatest separation distances.

The ridge height of the bungalow would be approximately 5.5m (an increase in height of 0.4m) and the eaves increased in height from 2.2m to 2.7m. Externally it is proposed to finish the dwelling in brick with some decorative features and contrasting brick details. White window frames are proposed under a tiled roof with dark finish.

Principle

The site is located within the Development Boundary therefore there is no principle objection to the proposal, subject to the detailed considerations discussed below.

Layout, Scale and Appearance

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. Emerging Policy SPL3 of Section 2 of the 2013-33 Local Plan also requires, amongst other things, that the development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Paragraph 130 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 single-storey bungalow is of a scale compatible with established development in the locale which typically comprises bungalows of a similar scale with a terrace of maisonettes to the south-east boundary. Separation distances to the east boundary are approximately 1.5m, to the south are just over 5m and to the west boundary are approximately 3.5m; this marginal off-setting is the most beneficial siting as it provides the greatest separation distances.

Neighbouring Amenities

The NPPF, at paragraph 130 states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Adopted Policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.

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, this is adequately shown on the plans. The donor dwelling retains all of its existing amenity area.

The dwelling's height would be increased by around 40cm; on balance – the separation distances in conjunction with the orientation of the dwelling are such that the increase in height will not have a materially-damaging impact on the amenity (loss of light, overbearing) than the approved dwelling.

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

Highway Issues

Paragraph 130 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. These objectives are supported adopted Policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The parking provision for the host dwelling would not be affected by the proposal. The dimensions of the garage are such that it complies with the dimension of a double garage, with additional surface parking. The potential to add a further bedroom in the loft-space would not materially diminish the parking provision.

Landscaping

The application site currently forms part of the curtilage of the host property and does not feature prominently in the street scene. There appears to be little scope or need for new soft landscaping to be carried out as part of the development of the land.

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 development relates solely to changes to the external appearance of the dwelling. This application seeks to amend the original planning permission which has been implemented and does not involve any increase to the number of properties to be built. The existing signed Unilateral Undertaking ensures 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.

The contributions have already been paid so there is no requirement for a UU under this new application.

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

Three letters have been received in response to the publicity of this application.

They have already erected the garage and this "monstrosity" now overlooks our garden fences and is all we can see from our windows.	The garage has not been built in accordance with the approved plans. This has been reported to our Planning Enforcement Team
They are now asking for a room within the roof, which will mean more height to the proposed bungalow.	The proposed height of the bungalow would be 40cm greater than the approved scheme.
If this is allowed we will be completely surrounded and it will be claustrophobic, causing us loss of amenity via a view and natural light.	The garage has not been built in accordance with the approved plans. The nominal increase in height is not considered to be materially more harmful than the approved height.

6. Recommendation

Approval - Full

7. Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:- TMA/832/03 Revision B, TMA/832/06 Revision C, TMA/832/07 Revision A, TMA/832/08 Revision A received 28th November 2019 and 001B received 5th Oct 2021.

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

- 2 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement of the dwelling-house permitted comprising an alteration to the roof permitted by Class B of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.

Reason - To protect the amenities and privacy of adjoining occupiers.

- 3 No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.

Reason - To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

- 4 Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, shall be submitted to and approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason - To promote the use of sustainable means of transport.

- 5 The development shall not be occupied until such time as the car parking and turning areas, have been provided in accord with the details shown in T.M.A. Drawing Numbered T.M.A/832/07 Rev A. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking 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.

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.

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