

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	JR	03.02.2022
Planning Development Manager authorisation:	AN	04/02/2022
Admin checks / despatch completed	DB	04.02.2022
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Application: 21/01494/VOC

Town / Parish: Little Clacton Parish Council

Applicant: Mr Swain

Address: Land adjacent Grove House St Osyth Road Little Clacton

Development: Variation of condition 2 (approved plans) of application 21/00027/FUL to allow for the dwelling on plot 1 to be constructed the same as the dwelling on plot 2.

1. Town / Parish Council

Little Clacton Parish Council No comments received

2. Consultation Responses

None

3. Planning History

18/01587/OUT	Erection of 2 custom built/self-build dwellings (all matters reserved).	Approved	21.12.2018
21/00027/FUL	Two custom built / self-build dwellings.	Approved	09.06.2021

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2021
National Planning Practice Guidance

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted 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

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL1 Managing Growth
SPL2 Settlement Development Boundaries
SPL3 Sustainable Design
HP5 Open Space, Sports & Recreation 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

Status of the Local Plan

Planning law requires that decisions on 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 (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

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 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, Paragraph 11 d) of the Framework requires granting 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 (what is often termed the 'tilted balance').

The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

5. Officer Appraisal

Site Description

The application relates to a parcel of land on the corner of St Osyth Road and Dead Lane, Little Clacton. The site is 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 an existing vehicular access from Dead Lane. The site lies outside the settlement development boundary for the area as defined within the adopted Tendring Local Plan.

Proposal

The application seeks to vary Condition 2 (approved plans) of planning permission 21/00027/FUL to make alterations to the approved dwelling on Plot 1 in order for it to be constructed to match the approved dwelling on Plot 2.

The alteration proposed to Plot 1 is minor in nature and seeks to extend the single storey element to the side of the dwelling, containing the utility room, study, W.C and larder, out by a further 1m to match in dimensions to the approved dwelling on Plot 2.

Principle of Development

The principle of development for two new dwellings on the site has been established in the approval of planning application 21/00027/FUL. The new Tendring Local Plan has been adopted since the approval of the previous application, however it is not considered that, whilst the site remains outside of any defined settlement development boundary, the adoption of the new Local Plan would materially alter this decision, based on the planning history of the site. The principle of development for two dwellings is therefore considered to be acceptable.

Scale, Layout, Character and Impact

Policy SP7 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. Policies SPL3 and LP4 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 126 of the Framework states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work, and helps make development acceptable to communities. Paragraph 130 of the Framework requires developments are sympathetic to local character and history, including the surrounding built environment, and are visually attractive as a result of good architecture.

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 proposed dwellings 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 proposed dwellings would be environmentally sustainable.

The residential character to the east and south is of a linear arrangement. However, the proposed dwellings 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 and it is considered that the small increase in width of Plot 1 would have a negligible impact on the open and spacious character of the dwellings and both dwellings would retain ample parking and private amenity areas.

Residential Amenities

The NPPF, Paragraph 130 maintains that policies and decisions should result in new development that creates 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.

Policy SP7, amongst other things, requires that the amenity of existing and future residents is protected. Policy SPL3 seeks new development that is designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents, provision is made for adequate private amenity space, waste storage and recycling facilities and the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

It is not considered that the small increase in width of Plot 1 would have any impact on the amenities of any nearby dwellings or the future occupiers of the proposed dwelling and has a very limited impact on the private amenity space provided for Plot 1.

Highway Safety and Parking

The small increase in width of Plot 1 has no impact on the layout and provision of the parking area for Plot 1 and 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.

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 minor alteration to the development previously approved.

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 use on a site that lies within the Zone of Influence (Zoi) being approximately 4500 metres from the Colne Estuary SPA and RAMSAR and Essex Estuaries SAC. New housing development within the Zoi 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 was made under application 21/00027/FUL and the mitigation amount has been paid. Therefore there is not requirement for an additional unilateral undertaking to be made for this application.

Therefore mitigation has been provided to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Policy PPL4 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

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.

Foul Drainage

Policy PPL5 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.

The development is to be served by a package treatment plant. This small alteration to the dwelling at Plot 1 has no impact on the drainage details already approved.

Representations

No representations have been received following a public consultation which included a site notice posted at the site, and neighbouring consultation letters sent out to the adjacent properties.

Conclusion

It is considered that the proposed alteration to the previously approved development is consistent with the National and Local Plan Policies identified above. In the absence of material harm resulting from the proposal the application is recommended for approval.

6. Recommendation

Approval – Full

7. Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of the permission 21/00027/FUL (9th June 2021)

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 plan(s):

Drawing No SGH-02 Revision B Plot 1 and 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.

Highways Informatives

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

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.

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.

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