

DELEGATED DECISION OFFICER REPORT

| AUTHORISATION | INITIALS | DATE |
|---|----------|------------|
| File completed and officer recommendation: | NH | 15/09/2022 |
| Planning Development Manager authorisation: | AN | 15/9/22 |
| Admin checks / despatch completed | CC | 16.09.2022 |
| Technician Final Checks/ Scanned / LC Notified / UU Emails: | ER | 16/09/2022 |

Application: 21/01088/FUL **Town / Parish:** St Osyth Parish Council

Applicant: Ms K Clare - Loud Architects

Address: 80 Norman Way Point Clear Bay St Osyth

Development: Erection of one-bedroom, pitched holiday chalet with car parking, amenity space and bin storage

1. Town / Parish Council

St Osyth Parish Council
26.10.2021

Whilst the Parish Council again has no objections to the building of a property on the vacant plot, there are a number of issues which the Council would bring to the attention of the Planning Officer.

With the exception of amendments to the number of windows, the Parish Council can see no real material difference in the plans to those previously commented on by the Council. There is no clear evidence to indicate that consideration has been given to ensuring that the property is flood resilient, which immediately raises concerns as to the issue of year-round occupancy.

Access to the proposed parking space would result in the owner/ occupant driving over a grassed area, which retains water, especially during the winter months, despite there already being an existing parking area 3 properties to the south of the proposed dwelling.

2. Consultation Responses

Environment Agency
05.11.2021

Thank you for your recent communications and confirming that the proposed dwelling will be used as a holiday let and not a permanent dwelling. Following this confirmation we are able to remove our previous holding objection.

Flood Risk

Our maps show the site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding.

The proposal is for a one bedroom holiday chalet. Sites used for holiday or short-let caravans and camping, fall into the 'more vulnerable' classification and are considered appropriate in Flood

Zone 3, subject to a specific warning and evacuation plan.

However if the holiday chalet is used all year round for residential use they would then be classed as 'Highly vulnerable' development and should not be permitted in Flood Zone 3 and the Exception Test is required in Flood Zone 2. If users of the development function as residents rather than holiday makers, in the event of a flood, they may have no other place of residence available and could lose all of their possessions. You should consider the flood zone 'compatibility' in accordance with Table 3 of the PPG.

The safety of the occupants of the holiday chalet are reliant on an emergency flood plan that deals with matters of evacuation. In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise you to formally consider the emergency planning and rescue implications when making your decisions.

2018 Coastal Modelling and climate change

The new UKCP18 Climate Change Allowances Report was published on Dec 17th 2019.

- For development classed as essential Infrastructure, highly vulnerable development and more vulnerable development our minimum benchmark for flood risk mitigation is for it to be designed to the 'upper end' climate change allowance for the development lifetime, including decommissioning.

- The upper end allowance for 2121 is approximately 0.30m higher than our current 2018 coastal modelling climate change flood levels, so as an approximation we recommend that 0.30m is added on to the on-site climate change flood levels.

- To assist you in making an informed decision about the flood risk affecting this site, the key points to note from the submitted FRA, undertaken by Flume Consulting Engineers referenced 1044 version 2 and dated August 2021 are: design 0.5% annual probability flood event, if the SMP policy is not followed then through overtopping of the current defences the resulting on-site flood level would be up to 5.28m AOD +0.30m = 5.58m AOD and 5.52m AOD +0.30m = 5.82m AOD in the extreme 0.1% annual probability flood event with allowance for climate change.

- Finished ground floor levels have been proposed at 2.10m AOD This is below the 0.5% (1 in 200) annual probability flood level including climate change of 5.58m AOD and therefore at risk of flooding by 3.48 m depth in this event.

- The site level is approximately 1.41m AOD and therefore flood depths on site are approximately 4.17m in the 0.5% (1 in 200) annual probability flood event including climate change and 4.41m in the 0.1% (1 in 1000) annual probability event with allowance for climate change.

- Therefore assuming a velocity of 0.5m/s the flood hazard is danger for all including the emergency services in the 0.5% (1 in 200) annual probability flood event including climate change.

- Therefore this proposal does not have a safe means of access in the

event of flooding from all new buildings to an area wholly outside the floodplain (0.5% (1 in 200) annual probability including climate change flood event).

Actual Risk

- The site lies within the flood extent for a 0.5% (1 in 200) annual probability event, including an allowance for climate change.

- The site does benefit from the presence of defences. However, the defences are below 0.5% (1 in 200) annual probability flood level including climate change and therefore the site is at actual risk of flooding in this event.

- At the end of the development lifetime with climate change applied to the design 0.5% annual probability flood event, if the SMP policy is not followed then through overtopping of the current defences the resulting on-site flood level would be up to 5.28m AOD +0.30m = 5.58m AOD and 5.52m AOD +0.30m = 5.82m AOD in the extreme 0.1% annual probability flood event with allowance for climate change.

- Finished ground floor levels have been proposed at 2.10m AOD This is below the 0.5% (1 in 200) annual probability flood level including climate change of 5.58m AOD and therefore at risk of flooding by 3.48 m depth in this event.

- The site level is approximately 1.41m AOD and therefore flood depths on site are approximately 4.17m in the 0.5% (1 in 200) annual probability flood event including climate change and 4.41m in the 0.1% (1 in 1000) annual probability event with allowance for climate change.

- Therefore assuming a velocity of 0.5m/s the flood hazard is danger for all including the emergency services in the 0.5% (1 in 200) annual probability flood event including climate change.

- Therefore this proposal does not have a safe means of access in the event of flooding from all new buildings to an area wholly outside the floodplain (0.5% (1 in 200) annual probability including climate change flood event).

- Finished first floor levels have been proposed at 5.77 m AOD and therefore there is not refuge above the 0.1% (1 in 1000) annual probability flood level of 5.82 m AOD.

- Compensatory storage is not required.

Emergency Flood Plan

- We have no objections to the proposed development on flood risk access safety grounds because an Emergency Flood Plan will be in place (page 11 of the FRA) but you should determine its adequacy to ensure the safety of the occupants. Please note that the only safe way to occupy this holiday chalet is to evacuate prior to flooding. It is your decision as to whether this can be enforced. There is no safe area of refuge.

Residual Risk

- Our data shows that in the worst-case scenario the site could experience undefended flood depths of up to 4.18 metres during the 0.5% (1 in 200) annual probability including climate change breach flood event and up to 4.40 metres during the 0.1% (1 in 1000) annual probability including climate change breach flood event. You may wish the applicant to provide a breach assessment for the development site in their FRA so that you can make a more informed decision on flood risk.

- Therefore assuming a velocity of 0.5m/s the flood hazard is danger for all including the emergency services in the 0.5% (1 in 200) annual probability flood event including climate change.

- Finished ground floor levels have been proposed at 2.10 m AOD.

- This is below the 0.5% (1 in 200) annual probability undefended flood level including climate change of 5.59 m AOD and therefore at risk of flooding by 3.49m depth in this event.

- Flood resilience/resistance measures have been proposed.

- Finished first floor levels have been proposed at 5.77 m AOD and therefore there is not refuge above the 0.1% (1 in 1000) annual probability undefended flood level including climate change of 5.81 m AOD.

- A Flood Evacuation Plan has been proposed, but requires review to ensure occupants do not become trapped within a holiday chalet full of flood water, with nowhere to evacuate to.

Shoreline Management Plan

The Shoreline Management Plan (SMP) policy for this area is 'hold the line' in the long term so it is possible that the flood risk management structures may be raised to maintain the required standard of protection in line with NPPF guidance for the lifetime of the development. However, the SMP policy is aspirational rather than definitive, so whether the structures are raised or reconstructed in the future will be dependent on the availability of funding. The level of funding that we can allocate towards flood risk management structure improvements is currently evaluated through Treasury cost benefit analysis, and any identified shortfalls in scheme funding requirements would require partnership funding contributions from other organisations or beneficiaries. As securing partnership funding cannot be guaranteed, we consider that the development should be made safe on its own merits, i.e. through raised floor levels.

However, we recognise that there may be the potential for future, forthcoming partnership funding contributions from other organisations and beneficiaries. If the Local Authority are confident that there is an existing or an upcoming collaborative approach to raise and secure the necessary partnership funding to meet any shortfalls in the long term, then they should give this consideration when determining if the Flood Response and Evacuation Plan is adequate.

Flood Warning Advice

We recommend that the occupants or owners of the Holiday Chalet are registered with our free Flood Warning service, Floodline

Warnings Direct, and expect the site owner to have suitable emergency plans in place to safely evacuate the occupants on the direction of police and local authorities. We endeavour to issue tidal flood warnings 10 to 12 hours in advance of the problem tide and it would be safer and more efficient to plan to evacuate the site on receipt of a severe flood warning.

Guidance for Local Council

Safety of Inhabitants - Emergency Flood Plan

The Environment Agency does not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

The Planning Practice Guidance to the National Planning Policy Framework states that those proposing developments should take advice from the emergency services when producing an evacuation plan for the development as part of the flood risk assessment.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you consult with your Emergency Planners and the Emergency Services to determine whether the proposals are safe in accordance with the guiding principles of the Planning Practice Guidance (PPG).

Sequential and Exception Tests

The requirement to apply the Sequential Test is set out in Paragraph 162 of the National Planning Policy Framework. The Exception Test is set out in paragraph 167. These tests are your responsibility and should be completed before the application is determined. Additional guidance is also provided on Defra's website and in the Planning Practice Guidance.

Other Sources of Flooding

In addition to the above flood risk, the site may be within an area at risk of flooding from surface water, reservoirs, sewer and/or groundwater. We have not considered these risks in any detail, but you should ensure these risks are all considered fully before determining the application.

We trust this information is useful.

ECC Highways Dept
04.10.2021

The revised information that was submitted in association with the application has been fully considered by the Highway Authority. 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. It is noted that Norman Way is classified as a private road and would not normally comment, however, the proposal is for a one bed dwelling it is also observed that with careful manoeuvring and as demonstrated

with the supporting information single vehicle could parallel park across the site frontage clear of the carriageway. While not ideal, it is unlikely to adversely affect other highway users or cause significant conditions of, obstruction, or congestion and therefore:

The Highway Authority does not object to the proposals as submitted.

Informative:

1: As indicated on drawing no. LA159_100 C, the proposed parking facility for the property shall have minimum dimensions of 2.9 metres x 5.5 metres, to ensure adequate space for parking off the highway is retained.

2: Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the carriageway. To ensure that appropriate loading / unloading facilities are available to ensure that the road is not obstructed during the construction period.

3: 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

3. Planning History

| | | | |
|--------------|-------------------------|----------|------------|
| 07/00396/FUL | Proposed extension. | Approved | 12.06.2007 |
| 07/01944/FUL | Rebuild holiday chalet. | Refused | 03.09.2008 |

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)

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP7 Place Shaping Principles

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

SPL3 Sustainable Design

PP8 Tourism
LP2 Housing Choice
LP3 Housing Density and Standards
LP4 Housing Layout
PPL1 Flood Risk
PPL4 Biodiversity and Geodiversity
HP5 Open Space, Sports & Recreation Facilities
DI1 Infrastructure Delivery and Impact Mitigation

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

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.

5. Officer Appraisal (including Site Description and Proposal)

Application site

The application relates to 80 Norman way, Point Clear Bay, St Osyth. The application site is a vacant plot which previously back in 2005 comprised of a building. The application site is located outside of any settlement development boundary.

Proposal

This application seeks planning permission for the erection of a one-bedroom, pitched roof holiday chalet with car parking, amenity space and bin storage.

This application was originally submitted as a replacement dwelling, however the application site has been vacant since 2005 and therefore this would not constitute a replacement. The application was then amended to propose a holiday chalet.

Assessment

Principle of Development

There are a number of national and local planning policies that have been established to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.

Paragraph 84 of the National Planning Policy Framework (2021) states that Local Planning Authorities should provide support for sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, which respect the character of the countryside. This includes supporting the provision of tourist and visitor facilities located in appropriate locations.

Furthermore, Paragraph 85 of the National Planning Policy Framework (2021) states that planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances, it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

Moreover, Tendring District Council's Tourism Strategy identifies four core objectives to develop tourism in Tendring: increase the amount of money visitors spend in Tendring; extend the length of time visitors stay in the District; attract higher spending visitors; and, improve the perception of Tendring as a tourism destination.

Policy PP8 of the Local Plan 2013-2033 relates to tourism uses states, amongst other things, that to attract visitors to the Tendring District and support economic growth in tourism, the Council will generally support proposals that would help to improve the tourism appeal of the District to visitors, subject to other relevant policies in the Local Plan. In particular, the Council will support appropriate proposals for:

- the provision of leisure and tourism facilities as part of farm diversification schemes

It is considered that the development would be accessible to potential visitors and users, there is parking provision available at the application site. As the vicinity comprises of a mixture of residential and holiday chalets, it is considered that the principle of development is acceptable subject to the detailed consideration below.

Design 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 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 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 proposed holiday chalet is one and a half storeys and incorporates solar panels to the front and rear elevation. In regards to the design, although not of a high quality design, there are a mixture of one and one and a half storey buildings within the immediate area and on balance with the use of brick, slate roof with aluminium windows and doors to match the neighbouring buildings, it is considered that the proposed design and appearance is acceptable.

Impact upon 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 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.

The proposed holiday chalet will be visible to number 79 and 81 Norman way. However due to the distance to the neighbouring boundary as well as the proposed chalet not proposing any side elevation windows, the proposed dwelling will not cause any significant harm upon neighbouring amenities.

The proposal will also be visible to the neighbouring dwelling to the south east, number 74. The proposed chalet incorporates windows to the first floor however due to the windows being high level to avoid any overlooking onto neighbouring amenities, it is not considered to cause any harm to neighbouring privacy. A condition would be imposed on any approval to ensure that permitted development rights are removed so that no additional windows can be proposed to protect the amenities of the neighbouring dwellings.

Trees and Landscaping

Paragraph 131 of the NPPF sets out the importance of trees and the contribution they make to the character and quality of urban environments. It states that planning policies and decisions should ensure that opportunities are taken to incorporate trees in developments and that existing trees are retained wherever possible. Policy LP4 relates to housing layout and states; to ensure a positive contribution towards the District's 'sense of place', the design and layout of new residential developments will be expected to incorporate and maximise the use of green infrastructure, verges, trees and other vegetation.

There are no trees or other vegetation on the application site and consequently none will be adversely affected by the development proposal. There appears to be little scope for new soft landscaping.

Highway Safety

Paragraph 108 of the National Planning Policy Framework 2019 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SPL3 Part B of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking.

Essex Highway Authority have been consulted on this application and have stated that Norman Way is classified as a private road and would not normally comment, however, the proposal is for a one bed dwelling it is also observed that with careful manoeuvring and as demonstrated with the supporting information a single vehicle could parallel park across the site frontage clear of the carriageway. While not ideal, it is unlikely to adversely affect other highway users or cause significant conditions of, obstruction, or congestion. The Highway Authority have no objections.

The proposed block plan demonstrates that the proposed dwelling can accommodate one parking space in line with Essex Parking Standards.

Flood Risk

It is acknowledged the EA has no objection to the proposed holiday use, in principle, but it is clearly highlighted in the EA response that the Council should be satisfied that the sequential test has been passed.

Paragraph 162 of the National Planning Policy Framework states that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

Section 2 Policy PPL1 of the Tendring District Local Plan 2013-2033 states All development proposals will be considered against the National Planning Policy Framework's 'Sequential Test', to direct development toward sites at the lowest risk of flooding, unless they involve land specifically allocated for development on the Policies Maps or Local Maps, which is not the case here.

The site lies within tidal Flood Zone 3a. Officers have identified other sites in the district which could accommodate the development in a lower flood zone. The Council therefore does not agree

that the sequential test has been satisfied. The allocations in the Local Plan, intelligence gathered in updating the SHLAA and knowledge of extant planning permissions indicates that there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding that are therefore considered sequentially preferable to the application site. It is therefore considered that the proposal fails the sequential test and would be contrary to Policy PPL1 of the Local Plan 2013-2033.

Habitat Regulations Assessment

Following Natural England advice and the introduction of Zones of Influences (Zoi) around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation), within these 'zones' Natural England are now requesting financial contributions to mitigate against any recreational impact from new dwellings. Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the RAMS strategy.

Given the scale of development for a single holiday unit, it is not considered likely to result in significant impacts on statutory designated nature conservation sites or landscapes.

Other Considerations

St Osyth Parish Council have been consulted on this application and have no objections to building the property on the vacant plot. However there are concerns with flood risk and parking.

Parking has been addressed within the report.

Two letters of support have been received.

One of the support letters raises a concern in regards to the provision of parking

Parking has been addressed within the report.

6. Recommendation

Refusal - Full

7. Reasons for Refusal

- 1 Paragraph 162 of the National Planning Policy Framework states that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

Section 2 Policy PPL1 of the Tendring District Local Plan 2013-2033 states All development proposals will be considered against the National Planning Policy Framework's 'Sequential Test', to direct development toward sites at the lowest risk of flooding, unless they involve land specifically allocated for development on the Policies Maps or Local Maps, which is not the case here.

The site lies within tidal Flood Zone 3a. The allocations in the Local Plan, intelligence gathered in updating the SHLAA and knowledge of extant planning permissions indicates that there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding that are therefore considered sequentially preferable to the application site. It is therefore considered that the proposal fails the sequential test and would be contrary to National Planning policy and Policy PPL1 of the Local Plan 2013-2033.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

| | | |
|---|-----|----|
| 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 |