

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	10/05/2022
Planning Development Manager authorisation:	SCE	11.05.2022
Admin checks / despatch completed	ER	11/05/2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	11.05.2022

Application: 21/02177/FUL **Town / Parish:** St Osyth Parish Council

Applicant: Ms Giwelb and Mr Greenblatt

Address: 35 Tower Estate St Osyth Clacton On Sea

Development: Demolition of existing dwelling and construction of a new dwelling.

1. Town / Parish Council

St Osyth Parish Council No objections.
22.02.2022

2. Consultation Responses

ECC Highways Dept
14.02.2022

The 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, google earth image dated April 2022.

Given Tower Estate is a private cul-de-sac, the proposal is acceptable to the Highway Authority.

Informative

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

Environment Agency
09.02.2022

Thank you for consultation on the 21 January 2022 for the above application. We have reviewed the documents as submitted and we have no objections subject to the conditions related to flood defences as outlined below. We have also included additional comments related to flooding below.

Flood Defences

Condition 1

No excavations of existing back slope of embankment are permitted within a 45 degree repose from the junction of the property boundary and the property boundary and the promenade.

Reason: To ensure protection of the flood defences

Condition 2

There shall be no overhang of any part of the development or other paraphernalia at any time onto the crest of the seawall as this could impact access for maintenance.

Reason: To ensure access for the maintenance of the flood defences is kept clear.

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 replacement dwelling which is classed as a more vulnerable development as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).

Flood Risk Assessment

To assist the LLFA in making an informed decision about the flood risk affecting this site, the key points to note from the submitted FRA, referenced development at 35 Tower Estate, Point Clear Bay, St Osyth, Essex, CO16 8NG and dated November 2021, are:

Actual Risk

- The replacement dwelling is of similar size and layout to the existing dwelling, so there is no increase in vulnerability at the site and the flood risk to the proposed development remains the same as the risk faced by the existing development. The proposed replacement dwelling also provides betterment through the inclusion of flood resistant/resilient construction, safe refuge and Flood Evacuation Plan, as detailed in the below bullet points.

- 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. The defences have an effective crest level of 4.33m AOD which is 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.

- Finished lower ground floor levels have been proposed at 1.65m AOD. This is below the 0.5% (1 in 200) annual probability flood level including climate change of 5.65m AOD and therefore at risk of flooding by 4.00m depth in this event. This floor only contains non-habitable uses.

- Finished upper ground floor levels have been proposed at 4.5m AOD. This is below the 0.5% annual probability flood level including climate change of 5.65m AOD and therefore at risk of flooding by 1.15m depth in this event. The proposed upper floor level is 0.20m lower, than the existing upper floor level, so does not count as betterment.

- Flood resilience/resistance measures have been proposed.

- Finished first floor levels have been proposed at 7.2m AOD and therefore there is refuge above the 0.1% (1 in 1000) annual probability flood level including climate change of 6.06m AOD. This additional floor provides betterment through providing safe refuge.

- The site level is 1.65m AOD and therefore flood depths on site are 4.00m in the 0.5% (1 in 200) annual probability flood event including 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 (up to a 0.5% (1 in 200) annual probability including climate change flood event). We have no objections to the proposed development on flood risk access safety grounds because an Emergency Flood Plan has been submitted by the applicant but the LLFA should determine its adequacy to ensure the safety of the occupants.

- Compensatory storage is not required.

Guidance for Local Council

Safety of Building - Flood Resilient Construction

The FRA proposes to include flood resistant/resilient measures in the design of the building to protect/mitigate the proposed development from flooding.

The LLFA should determine whether the proposed measures will ensure the safety and sustainability of the proposed development. Consultation with the Councils building control department is recommended when determining if flood proofing measures are effective. Further information can be found in the document 'Improving the flood performance of new buildings' at: http://www.planningportal.gov.uk/uploads/br/flood_performance.pdf. Additional guidance can be found in our publication 'Prepare your property for flooding', which can be found on our website at <https://www.gov.uk/government/publications/prepareyour-property-for-flooding>

Safety of inhabitants - Safety of Building

The development has been designed to provide refuge above the predicted flood levels. Given that refuge is identified as a fallback mitigation measure it is important that the building is structurally resilient to withstand the pressures and forces (hydrostatic and

hydrodynamic pressures) associated with flood water. We advise that supporting information and calculations are submitted to the Council to provide certainty that the buildings will be constructed to withstand these water pressures.

Safety of Inhabitants - Emergency Flood Plan

The Environment Agency does not normally comment on or approve the adequacy of flood emergency 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 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 the Council consult with their 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).

We have considered the findings of the likely duration, depths, velocities and flood hazard rating against the design flood event for the development proposals. This indicates that there will be:

- A danger for all people (e.g. there will be danger of loss of life for the general public and the emergency services).

This does not mean we consider that the access is safe, or the proposals acceptable in this regard. We remind the Council to consult with their Emergency Planners and the Emergency Services on the evacuation proposals.

Partnership funding for new/upgraded defences

Please note that government funding rules do not take into account any new properties (residential or non-residential), or existing buildings converted into housing, when determining the funding available for new/upgraded defences. Therefore as the proposed development may reduce the funding available for any future defence works we would like to take opportunities to bring in funding through the planning system, so please can the Council consider this when determining the planning application.

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 164. 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

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 (including Site Description and Proposal)

Site Description

The application site is 35 Tower Estate, which is located south west of Tower Estate, located outside the settlement development for the area as defined within the Local Plan 2013-2033. It is located within Flood Zone 3 and within the Coastal Protection Belt. The area surrounding the site has a variety of different types of properties, all in close proximity to each other.

The existing dwelling is detached and built across two floors with external steps to the side of the dwelling leading to a raised patio. The patio has a gate which leads to a public footway and the sea wall.

Proposal

The application seeks planning permission for the replacement of the existing dwelling. As the ground level changes to the proposal will be viewed as having two storeys from the front of the elevation and three storeys in height from the rear elevation of Tower Estate.

The dwelling will comprise of a store, utility, shower area, W.C, coat and shoe store to the ground floor with a garden area, parking for two cars and an undercover area. To the upper ground floor is a living dining area, kitchen area, snug, cupboard and W.C. The first floor plan will comprise of two double bedrooms, office/spare bedroom, en-suite and bathroom with a balcony.

ECC SUD's were consulted on this application by mistake and therefore their comments have not been taken into consideration when determining this application.

Assessment

The main considerations for this application are:

- Principle of development
- Design and Appearance
- Residential Amenities
- Highway Safety and Parking Provision
- Tree and Landscaping
- Financial Representations - Open Space
- Flood Risk
- Impact on the Coastal Protection Belt
- Other Considerations

Principle of development

The proposal involves the replacement of a dwelling outside of any defined settlement boundary. Policies SPL3 and PPL3 offer support for replacement dwellings in the countryside, subject to meeting certain criteria. The proposal is acceptable in principle subject to meeting certain criteria and policy considerations outlined 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.

In addition to the overarching Policy SP7 with regard to design, appearance and landscape character outlined above, more specifically extensions to or the replacement of a dwelling outside defined settlement development boundaries should be assessed in line with Policies PPL3 and SPL3 Part A (Design). These policies are concerned with the design, character and appearance of new development and its impact on local landscape character and the protection of the rural landscape.

The proposed replacement dwelling is larger in height and bulk than the existing dwelling on site. The surrounding area is a mixture of design and types of dwelling that all face the sea and are located on land which slopes downwards and results in the dwellings having an extra floor when being viewed from the rear elevation. The proposed dwelling is taller than the existing dwelling, however, it will not be any higher than other properties within the vicinity and therefore it is considered to be in keeping with the character of the area. The proposed dwelling is considered to be of a better design than the existing dwelling and given the variety of designs in the surrounding area would not result in any material harm.

The materials proposed; blue/grey engineering bricks, silver grey cedar cladding, grey slate effect tiles, white aluminium and PVC windows with white aluminium sliding french doors. The materials proposed are considered to be in keeping with the character of the area and therefore are considered acceptable.

In terms of the distance to the boundary, the proposed replacement will retain at least one metre to each neighbouring boundary. It is therefore considered that the redevelopment of this site would not result in overriding harm to the character of the surrounding area

Residential Amenities

Paragraph 130 of The Framework 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 SPL3 seeks new development that does not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

The proposed dwelling does result in an increase in height, depth and width and introduces new windows and balcony areas therefore resulting in a change in the relationship with the immediate neighbours and the potential to result in some impact upon the amenities of the occupiers of these dwellings.

To the north westerly side elevation is number 34 Tower Estate. The proposal includes three side elevation windows serving the stairs/hall, kitchen and living/dining area. A condition will be imposed to obscure glaze the kitchen and living/dining room to avoid overlooking onto neighbouring amenities. The proposal comprises of windows to the first floor side elevation for a stair/hall, bathroom and bedroom. A condition will be imposed to obscure glaze the window serving the bathroom and bedroom to avoid any overlooking. The proposal does incorporate a balcony however the balcony has a partial screen which will help to limit any views onto neighbouring amenities.

To the south easterly side elevation is number 36 Tower Estate. There is a window proposed to serve the bedroom on the first floor however a condition will be imposed to ensure that this is obscure glazed to avoid overlooking onto neighbouring amenities. The proposed staircase will replace the existing staircase and therefore it is considered that no additional harm will be created. There is a balcony proposed to the first floor and a condition will be imposed to ensure that a privacy screen is imposed to ensure that there is no overlooking onto neighbouring amenities. It is therefore considered that the proposal will not cause any significant impact upon neighbouring amenities.

Highway Safety and Parking Provision

Paragraph 110 of the Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SP7 seeks new development to include parking facilities that are well integrated as part of the overall design. The sentiments of this policy are carried forward within Policies SPL3 and CP1. Furthermore, the Essex County Council Parking Standards 2009 set out the parking requirements for new development.

Essex Highways Authority have been consulted on this application and have stated that given Tower estate is a private cul de sac, the proposal is acceptable to the Highway Authority.

The proposed replacement dwelling comprises of parking to the front of the property which can accommodate two parking spaces in line with Essex Parking Standards.

Trees and Landscaping

Policy SPL3 seeks new development that respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. The design and layout of the proposed development should maintains or enhance important existing site features of landscape, ecological, heritage or amenity value.

No trees or other significant vegetation will be adversely affected by the development proposal. There is little opportunity or public benefit to be gained by new soft landscaping associated with the development proposal.

Financial Contribution - Open Space

The Council's Open Spaces Strategy (2017) identifies the nature of any existing surpluses and deficiencies and provides size and quality standards for the provision of future open spaces and

green infrastructure in the District. This is reflected in the Policies HP3, HP4 and HP5 of the 2013-2033 Local Plan. Specifically, Policy HP 5 states that, where new development would be better served by existing open space within an accessible distance, a financial contribution in lieu of on-site provision will be sought towards any necessary improvement or expansion of existing facilities.

There is currently a deficit of 6.44 hectares of equipped play and formal open space in St Osyth and Point Clear. As this is a replacement dwelling, no contribution is being requested on this occasion.

Flood Risk

The replacement dwelling is of similar size and layout to the existing dwelling, although it does result in additional habitable space, which could result in additional people residing there. However, as there is no increase in vulnerability at the site and the flood risk to the proposed development remains the same as the risk faced by the existing development. The proposed replacement dwelling also provides betterment through the inclusion of raised floor levels, flood resistant/resilient construction, safe refuge and a Flood Evacuation Plan. A Flood Risk Assessment has been submitted which sets out measures that will be used to reduce the risk to persons and property from the potential flooding. This is considered to be acceptable.

The Environment Agency have been consulted on this application and have no objection.

Impact on the Coastal Protection Belt

Policy PPL2 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to protect the unique and irreplaceable character of the Essex coastline from inappropriate forms of development as well as seeking to improve public access to and enjoyment of the coast in accordance with the National Planning Policy Framework.

The proposal will not have a substantial impact upon the Coastal Protection Belt as the proposal is for a replacement dwelling and therefore the character will not change.

Other Considerations

St Osyth Parish Council have no objections to this application.

No letters of representations have been received.

6. Recommendation

Approval - Full

7. Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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 plans:

- Drawing No. P501 – Proposed Site Plan
- Drawing No. P503 – Lower Ground and Upper Floor Plan
- Drawing No. P505 – Proposed First Floor Plan and Roof Plan
- Drawing No. P508 – Proposed cross section
- Drawing No. P510 – Proposed Elevations
- Drawing No. P515 – Proposed Streetscenes

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

- 3 A Watching Brief shall be undertaken throughout the construction phases of the development hereby approved. In the event of unexpected ground conditions being encountered at any time during construction, all site works at the position of the suspected contamination shall stop and the local planning authority and environmental protection team notified. The following minimum requirements for dealing with unexpected ground conditions being encountered during construction shall be adhered to throughout and evidence of each stage reported in writing to the local planning authority for approval:

1. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
2. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
3. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
4. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
5. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
6. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
7. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
8. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
9. A photographic record will be made of relevant observations.
10. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be: -re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or - treatment of material on site to meet compliance targets so it can be re-used; or -removal from site to a suitably licensed landfill or permitted treatment facility.
11. A Verification Report will be produced for the work.

Reason - To ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 4 All new hard surfaced areas shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the site.

Reason - In the interests of sustainable development and to ensure that run-off water is avoided

- 5 Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), the windows shown on Drawing No. P510 to the first floor south eastern side elevation serving the bedroom, shall

be non-opening below 1.7 metres above finished floor level and glazed in obscure glass prior to first occupation and shall thereafter be permanently retained in this approved form.

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

- 6 Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), the windows shown on Drawing No. P510 to the upper ground floor serving the kitchen and living/dining area and the windows shown to the first floor side elevation serving the bathroom and kitchen, shall be non-opening below 1.7 metres above finished floor level and glazed in obscure glass prior to first occupation and shall thereafter be permanently retained in this approved form.

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

- 7 Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), the balcony shown on drawing no. P505 shall be glazed in obscure glass to a height of 1.8 metres on the South Easterly elevation prior to the balcony's first use and shall thereafter be permanently retained in this approved form.

Reason - To protect the privacy and amenities of the occupiers of the neighbouring property.

- 8 No excavations of existing back slope of embankment are permitted within a 45 degree repose from the junction of the property boundary and the property boundary and the promenade.

Reason- To ensure protection of the flood defences

- 9 There shall be no overhang of any part of the development or other paraphernalia at any time onto the crest of the seawall as this could impact access for maintenance.

Reason- To ensure access for the maintenance of the flood defences is kept clear.

- 10 No development shall take place, including any ground works or demolition, until a Construction Management Plan and associated site layout plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:

- safe access to/from the site;
- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- wheel washing facilities;
- measures to control the emission of dust and dirt during demolition and construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- details of hours of deliveries relating to the demolition and construction of the development;
- details of hours of site clearance or construction;
- a scheme to control noise and vibration during the demolition and construction phase, including details of any piling operations.

Reason - In the interests of residential amenity and highway safety.

- 11 The hereby approved development shall only be implemented in full accordance with the agreed Floor Warning & Evacuation Plan updated April 2022. The Flood Warning

Evacuation Plan shall remain in force for the duration of the occupation period and shall remain a live document and be updated where required.

Reason - The site is at risk from flooding and a detailed evacuation plan is essential to safeguard future occupiers of the development.

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? If so please specify:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO