

DELEGATED DECISION OFFICER REPORT

| AUTHORISATION | INITIALS | DATE |
|---|----------|--------------------------|
| File completed and officer recommendation: | AC | 3 rd May 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: 22/00015/FUL **Town / Parish:** Clacton Non Parished

Applicant: Mr Heley

Address: Land adjacent 81 Lake Walk Clacton On Sea Essex

Development: Proposed single storey 2 bedroom property and formation of driveway to existing property.

1. Town / Parish Council

Not applicable

2. Consultation Responses

ECC Highways Dept 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 September 2016. From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority, subject to mitigation and conditions.

UU Open Spaces
02.03.2022 Response from Public Realm
Open Space & Play

There is currently a deficit of 41.08 hectares of play and Open Space in the Clacton/Holland area.

Due to the significant deficit in terms of play it is felt a contribution towards play is justified and relevant to this planning application. The closest play area and open space to the development is located at Rush Green, any contribution would be used to make improvements at this area.

Tree & Landscape Officer
25.01.2022 No trees or other significant vegetation will be adversely affected by the development proposal.

3. Planning History

| | | | |
|--------------|---|-----------|------------|
| 03/00042/FUL | Erection of boundary fence | Withdrawn | 11.04.2003 |
| 06/01004/FUL | 3 one bed flats and 1 two bed flat. | Refused | 03.08.2006 |
| 08/00551/FUL | Erection of a two storey detached 4 bed dwelling. | Refused | 29.05.2008 |

22/00015/FUL

Proposed single storey 2 bedroom property and formation of driveway to existing property.

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 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
- SP6 Infrastructure and Connectivity
- 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
- LP1 Housing Supply
- LP4 Housing Layout
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- CP1 Sustainable Transport and Accessibility

Supplementary Planning Documents

Tendring Provision of Recreational Open Space for New Development SPD 2008

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)

Local Planning Guidance

Essex Design Guide

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.

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 site is at the corner of Lake Walk and Coopers Lane and forms part of the garden of 81 Lake Walk. No. 81 is the end dwelling in a terrace of four properties and is a one and half storey dwelling with a mansard roof. To the east is 60 Coopers Lane, which is one of a pair of semi-detached hipped roof two storey dwellings.

The site is of an irregular triangular shape with the dwelling against the north-west boundary, there is a compact rear garden and large open area to the south-east. The side/rear garden has been enclosed by a fence which aligns with the dwelling's façade and returns to the east boundary. Forward of the fence is a hardstanding for the donor dwelling, served by an existing dropped kerb; behind the fence adjacent the boundary with 60 Coopers Lane is a small detached garage.

Relevant History

In June 2006 an application for 3 one bed flats and 1 two bed flat was refused for having a detrimental impact on the rear amenity space of 60 Coopers Lane with regards to be overbearing and causing a loss of sunlight, for failing to provide adequate amenity space for the occupiers of the flats, for introducing a form of development which was overly-dominant and unattractive in context of the streetscene and finally, inadequate visibility splays and provision for vehicles to only exit the site in a reverse gear.

In May 2008 an application for a single, detached dwellinghouse was refused by reason of its design being bland, unattractive and harmful to visual amenity; secondly – whilst proposing an amenity space of adequate size, the irregular shape would lack usability; thirdly – inadequate

parking provision for both the donor and proposed dwelling; fourth – introducing an oppressive feature that would amount to a material loss of aspect for the occupiers of 60 Coopers Lane; finally – failure to secure financial contributions for open space requirements.

The decision to refuse planning permission was the subject of an appeal in April 2009. The appeal was dismissed, the Inspector concluding that the proposals would harm the character and appearance of the area; the shape and orientation of the rear amenity area would limit its use and ability to meet the day to day functional needs of the future occupiers.

Description

Following removal of the boundary fence which encloses the rear garden of the donor dwelling, the site would be sub-divided in a north-east/south-west direction. A single storey detached two-bedroom bungalow is proposed in the new plot, sited against the north-west elevation with its front and rear elevations running parallel to the donor dwelling. Front and rear gardens are proposed, as is off-street parking for both the proposed and donor dwelling.

The dwelling itself would have a footprint a little over 80sqm with eaves around 3.1m and a gabled roof around 5.5m.

Following feedback given, raising concerns regarding a number of matters, the proposed elevations were amended from hipped ends to gabled-ends and the layout of the parking area extended to provide access and turning provision.

Assessment

The main planning considerations are:

- Principle of Development;
- Layout, Scale and Appearance;
- Neighbouring Amenities;
- Highway Considerations;
- Financial Contributions – RAMS
- Financial Contributions – POS
- Representations

Principle of Development

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

Layout. Scale and Appearance

Section 1 Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Section 2 Policy SPL3 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. Section 2 Policy LP4 requires that the design and layout of new residential and mixed-use developments in the Tendring District will be expected to deliver new dwellings that are designed to high standards of architecture, which respect local character and which together with a well-considered site layout, create a unique sense of place. 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.

Form is the three-dimensional shape and modelling of buildings and the spaces they define. Buildings and spaces can take many forms, depending upon their size and shape in plan; height; bulk - their volume; massing - how bulk is shaped into a form and relationship to the plot boundary. Scale is the height, width and length of each building proposed within a development in relation to its surroundings. This relates both to the overall size and massing of individual buildings

and spaces in relation to their surroundings, and to the scale of their parts. It affects how a space can be used and how it is experienced. The relationships between the different dimensions of a building or component are known as its proportions. Appearance is the aspects of a building or space within the development which determine the visual impression the building or space makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.

The donor dwelling is a typical example of post-war prefabricated housing with distinct gambrel roofs and tile-hanging at first floor; within the locale there are five pockets of these houses. It is observed that there are single-storey bungalows within the vicinity, notwithstanding this they are in excess of 80m to the north-west, beyond the distinct character of the donor dwelling. No. 60 Coopers Lane is a typical late twentieth two-storey dwelling finished in a yellow stock brick and having an interlocking clay tile roof.

The form of the new dwelling, being of an over-simplified rectangle with gabled roof bears no resemblance to or mimics any of the features of the adjacent dwellings. The siting of the dwelling itself, hard against the left hand boundary yet having an awkward and jarring relationship with the right hand boundary neither enhances nor compliments how the dwelling presents to the public realm. The plot itself is of an irregular wedge-shape – the rearmost point of the garden being the narrowest part of the plot. The dwelling’s requirement to meet internal space standards (see below) has set the parameters for the size of the building and it has been ‘pushed’ deep in to the plot to achieve the maximum width possible, causing a conflict point at the rear right hand corner of the building which is a mere 0.5m from the boundary. The footprint of the dwelling is significantly larger than the donor dwelling but has similarities to No. 60 Coopers Lane; however – like the much-extended Coopers Lane, the extent of footprint in relation to the rear garden is excessive. There is a considerably great degree of front garden and awkward wedge-shaped side and rear gardens. The revised amended plans introduced areas of timber cladding to external finishes in conjunction with the buff brick proposed however both adopted Policy LP4 and paragraph 130 of the Framework require new dwellings to be designed to high standards of architecture which are visually attractive. The external appearance is overly-simple, bland and uninspiring.

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. Section 1 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. Section 2 Policy LP4 requires that new residential developments will be expected to provide for private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area.

Space Standards:-

In March 2015, the government launched a new approach to housing standards and published a new set of streamlined national technical standards. This included publication of Technical housing standards – nationally described space standard.

| | No. of Bedrooms | No. of Bed Spaces | Storeys | Min Requirement | Actual Floorspace | Compliance |
|--|-----------------|-------------------|---------|-----------------|-------------------|------------|
| | 2 | 3 | 1 | 61sqm | 62sqm | yes |

As a result of the scale of the dwelling being of single storey nature, it is likely that the development will protect the amenity of *existing* residents with regards to loss of light, overbearing and overlooking.

In regards to the proposed occupiers of the application site; No. 60 Coopers Lane has two first-floor side facing windows which are likely to facilitate overlooking across a significant proportion of the application site. The proposed north-east facing garden has a side boundary around 12.7m

deep, the built form associated with No. 60 Coopers Lane (being of two-storey scale) occupies a significant 10.9m length of this boundary.

The rear amenity space of No. 60 Coopers Lane is one of the smallest in the locale; this is as a direct consequence of the very large rear extension which diminished the available amenity space; the scenario of a 'self-caused' reduction in rear garden appears to have also occurred at Nos. 13 and 15 Marlborough Close to the north and No. 66 Lake Walk to the south-west. There are no 'original' gardens of the size proposed.

For these reasons it is likely that the proposed amenity space is not only inadequate in both size and its wedge-shaped is incomparable to other garden configurations in the locale; but, in conjunction with being partially overlooked and dominated by existing built form would overall fail to meet the needs and expectations of residents.

Highway Considerations

Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. Paragraph 112 states that applications for development should (a) give priority first to pedestrian and cycle movements and (c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter. 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.

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 September 2016. From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority, subject to mitigation and conditions.

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 application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 5,579 metres from Colne Estuary Mid-Essex Phase 2 SPA, SAC and Ramsar. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Colne Estuary; 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.

In the absence of a unilateral undertaking in accordance with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD, the Council cannot be certain that the proposal would not harm habitat sites of ecological interest. The proposal is therefore contrary to adopted Policy SP2 and Section 15 of the National Planning Policy Framework.

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.

Section 2 Policy HP5 states that The Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update. Financial contributions will also be sought through s106 legal agreements (or an appropriate alternative mechanism) towards ongoing maintenance.

In the absence of a unilateral undertaking in accordance with the Provision of Recreational Open Space for New Development SPD, the public open space and recreation infrastructure requirements of the development would not be met. The proposal would thereby be in conflict with saved Policy COM6 and emerging Policy LP5, and Section 8 of the National Planning Policy Framework.

Representations:-

No letters have been received in response to the publicity of this application.

6. Recommendation

Refusal - Full

7. Reasons for Refusal

- 1 Paragraph 130 of the National Planning Policy Framework 2021 requires that developments are sympathetic to local character and maintain a strong sense of place. Policy SP7 of Section 1 of the adopted Local Plan 2013-33 and Beyond seeks high standards of design, which respond positively to local character and context. Policies SPL3 and LP4 of Section 2 of the adopted Local Plan also require that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout relate well to its site and surroundings.

The new dwelling has an uninspiring, over-simplified form with a gabled roof that bears no resemblance to or replicates any of the features of the adjacent dwellings. The siting of the dwelling itself, hard against the left hand boundary yet having an awkward and jarring relationship with the right hand boundary neither enhances nor compliments how the dwelling presents to the public realm. The external appearance is overly-simple and bland.

The siting, poor layout, appearance and design would result in a harmful form of development contrary to the aims of the above national and local plan policies.

- 2 Paragraph 130 of the National Planning Policy Framework 2021 requires planning policies and decisions to create places with a high standard of amenity for existing and future users. Policy SP7 of Section 1 of the adopted Local Plan endorses this requirement. Adopted Local Plan Section 2 Policy SPL 3 (Part B) seeks to ensure that buildings are designed and orientated to ensure adequate daylight, outlook and privacy for future residents

The proposed amenity space is not only inadequate in both size and its wedge-shaped is incomparable to other garden configurations in the locale; but, in conjunction with being partially overlooked and dominated by existing built form would overall fail to meet the needs and expectations of residents, contrary to the aims of the above national and local plan policies.

- 3 In the absence of a unilateral undertaking in accordance with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD, the Council cannot be certain that the proposal would not harm habitat sites of ecological interest. The proposal is therefore contrary to adopted Policy SP2 and Section 15 of the National Planning Policy Framework.

- 4 In the absence of a unilateral undertaking in accordance with the Provision of Recreational Open Space for New Development SPD, the public open space and recreation infrastructure requirements of the development would not be met. The proposal would thereby be in conflict with saved Policy COM6 and emerging Policy LP5, and Section 8 of the National Planning Policy Framework.

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? | | NO |
| Are there any third parties to be informed of the decision? | | NO |