

landscaping to soften, screen and enhance the appearance of the development.

Although the scope for new planting appears to be limited some new planting will assist with the assimilation of the proposed dwelling into its setting.

UU Open Spaces
21.09.2022

Response from Public Realm Open Space & Play

Current Position

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

Recommendation

No contribution is requested from Open Spaces on this occasion.

3. Planning History

97/00278/FUL	New 2.0m boundary wall to enclose front garden	Refused	08.05.1997
10/00419/FUL	Proposed single storey front extension incorporating conversion of garage to study.	Approved	21.05.2010
20/30079/PREAPP	Proposed single storey side extension, double detached garage and movement of wall separating front and back gardens.		03.07.2020
21/00344/FUL	Erection of double garage side extension (following demolition of existing conservatory)	Approved	27.04.2021
22/01416/OUT	Outline planning permission with all matters reserved for 1no. new dwelling.	Current	

4. Relevant Policies / Government Guidance

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Statutory guidance - Technical housing standards: nationally described space standard Published 27 March 2015

Local:

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)
- 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
- LP1 Housing Supply
- LP4 Housing Layout
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL9 Listed Buildings
- CP1 Sustainable Transport and Accessibility
- DI1 Infrastructure Delivery and Impact Mitigation

Supplementary Planning Documents

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 the front/side garden of No. 5 Sheppard Close. Sheppard Close is a cul-de-sac of seven late twentieth century dwellings of varied design comprising two-storey and chalet bungalows. At the west end of the turning head is pedestrian access leading to the Cann Hall estate, a Grade II* house dating to around 1512 and built for St Osyth's Priory.

Following the removal of a number of trees at the west end of the turning head the rear of the curtilage listed barn sited along the east boundary of Cann Hall, is now highly visible in the public domain from many vantage points including Cotman Road to the east. Views of the dwelling from Constable Avenue would be considerably less conspicuous as a result of the barn being around 57m north of the access in to the Cann Hall estate.

Description

The application is in outline form with all matters reserved, notwithstanding this the application does include detailed floor plans with corresponding elevations.

The proposal is for one detached chalet-bungalow, the rear of which would be parallel with the west boundary of the host dwelling, it would have an oblique relationship to the turning head.

As a consequence of the very irregular-shaped plot there are significant differences in terms of the dwelling's relationship to its boundaries; these include nominal separation (1.2m reducing to 1.1m) across the width of the dwelling to the rear boundary, and 1.2m at the front right hand corner adjacent the public footpath. A 90sqm expanse of block paving is proposed to serve as a hardstanding. Externally the dwelling would have a ridge running in a north/south direction at a height in the region of 7.6m with eaves around 4.1m and a footprint in the region of 73sqm.

The property would have two double bedrooms and a small room labelled as a home office. The external materials would comprise off-white weatherboarding to the ground-floor front façade and the first floor gables, the remainder of the facades are labelled as Gaulted brickwork with a concrete tiled roof over.

Assessment

The main planning considerations are:

- Principle of Development;
- Layout, Scale and Appearance;
- Residential Amenities;
- Highway Considerations;
- Heritage Assets
- Water Conservation, Drainage and Sewerage
- Financial Contributions – RAMS

- Financial Contributions – POS
- Representations

Principle of Development

Within Settlement Boundary

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.

Whilst the plot is of an irregular shape, so is that of the donor dwelling; the property is set some distance back from the pavement – but this distance is no greater than No. 3. Nos. 1, 3 and 5 are all two storey dwellings with the ridge(s) running east-westerly; Nos. 2, 6 and 8 are chalet bungalows also with the ridge running east-westerly – Nos. 6 and 8 have a large flat roofed dormer across the forward facing roof plane. No. 4 is a chalet bungalow and is the only property with the ridge running north-southerly. All properties are finished in materials which are typical of the decade they were constructed in (those to the right hand side of the cul-de-sac are a creamy/beige based buff brick with examples of tile-hanging features); those to the left hand side are finished in a red-based buff brick with examples of tile-hanging and PVC cladding. With such a mix of design, scale and external features little objection if raised to the size, design and appearance of the proposed dwelling.

Notwithstanding the appropriate design, scale and appearance of the dwelling, Section 1 Policy SP7 of the 2013-33 Local Plan requires that all new development should protect and enhance assets of historical or natural value.

Consideration of the contribution of setting to the significance of heritage assets, and how it can enable that significance to be appreciated, will almost always include the consideration of views. Setting is the surroundings in which an asset is experienced, and may therefore be more extensive than its curtilage. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not. The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part the way in which we experience an asset in its setting is also influenced by other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.

Setting is not itself a heritage asset, nor a heritage designation, although land comprising a setting may itself be designated. Its importance lies in what it contributes to the significance of the heritage asset or to the ability to appreciate that significance.

Settings of heritage assets which closely resemble the setting at the time the asset was constructed or formed are likely to contribute particularly strongly to significance. Because the contribution of setting to significance does not depend on public rights or ability to access it, significance is not dependent on numbers of people visiting it; this would downplay such qualitative issues as the importance of quiet and tranquillity as an attribute of setting.

The contribution of setting to the significance of a heritage asset is often expressed by reference to views, a purely visual impression of an asset or place which can be static or dynamic, long, short or of lateral spread, and include a variety of views of, from, across, or including that asset.

Following the removal of a number of trees at the west end of the turning head the rear of the curtilage listed barn sited along the east boundary of Cann Hall, is now highly visible in the public domain from many vantage points including Cotman Road to the east. The entire roof of the barn (from eaves level upwards) is visible and occupies almost the full width of the backdrop to the turning head – its appearance is visually enhanced by a number of trees to the sides which provide a ‘framing’ of the view of the barn. When standing approximately 16m east of the streetlight its height has the perspective of reaching the top of the barn’s chimney; the streetlight is in the region of 5m tall and the new dwelling of 7.6m. Views of the left hand third of the barn would be completely obscured by the new dwelling and for this reason it is considered that the siting of the dwelling materially harms the setting of this curtilage listed building. For this reason the proposal fails to protect an asset of historical value, contrary to Section 1 Policy SP7 of the 2013-33 Local Plan.

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	4	2	79	146sqm	yes

The dwelling would be sited just over 14m south of the front elevation of No. 8 and 6.7m from the rear garden of the donor dwelling. Both gable ends contain first-floor side facing windows, the lower cill-level of which is 1m above internal finished floor level; there is some risk of partial overlooking and, should the scheme have been acceptable in all other aspects, planning conditions would have been imposed requiring these windows to be obscurely glazed and permanently fixed shut. In regards to Cann Hall Cottages, this dwelling is around 23m away and, although rooflights are proposed in the front and rear roofslopes, the lower edge of the openings are sited 1.8m above internal finished floor level.

Both the configuration and size of gardens differ in the immediate locale, for this reason the size and shape of the proposed garden would be acceptable.

Overall it is likely the development would protect the amenity of existing and future residents and users with regard to loss of light, overbearing and overlooking.

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 Highway Authority has no comments to make on the proposal.

Water Conservation, Drainage and Sewerage

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.

Adopted Policy PPL5 of Section 2 of the Adopted Local Plan 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.

As this is an outline scheme with all matters reserved, such information would not be provided until reserved matters stage. It is however prudent that new development is prevented from contributing to unacceptable levels of water pollution and a connection to mains sewer is always the preferred option.

Heritage Asset

The extent and importance of setting is often expressed by reference to the visual relationship between the asset and the proposed development and associated visual/physical considerations. Although views of or from an asset will play an important part in the assessment of impacts on setting, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust, smell and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.

The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights of way or an ability to otherwise access or experience that setting. The contribution may vary over time.

Development affecting the setting of a Listed Building can have as dramatic, and if not properly controlled, as severe an impact as unacceptable alterations to the building itself. The setting of a Listed Building is a material planning consideration when considering planning applications. Adopted Policy PPL9 states that proposals for development that would adversely affect the setting of a Listed Building, including group value and long distance views will not be permitted.

Paragraph 197 of the NPPF requires the Local Planning Authority, when determining applications for development, to take account of the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that conservation of heritage assets can make to sustainable communities and the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 199 of the NPPF requires that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

The Listing is described as:

House. Circa 1512, built for St Osyth's Priory, with some C18 alterations; refenestrated in C20. Timber framed and plastered with close-studding mainly concealed and with brick nogging infill to south front. Red plain tiled roof, hipped with gablets. Off centre left red brick chimney stack. Comprises two bay hall aligned east-west with in line service end to the east and upper end crosswing to the west which projects to the north. The hall and parlour were heated by an original stack. Continuous jetty on the south front. To the north are the fragmentary remains of a further timber framed building, probably detached kitchen, now attached to main house. Two storeys. Five windows to main front first floor with C20 two and three-light casements and three C20 oriels to ground floor. Vertically boarded door in original segmental head to right. Interior has exposed frame of high quality including open fireplaces, elaborate hall ceiling with transverse beam with highly ornate oak-leaf stops. Two axial beams with elaborate moulding and crown post roof with traces of reddish ochre colour remaining. After the suppression of St Osyth's Priory in 1539, Cann Hall passed to Thomas Cromwell, later to Princess Mary and to Lord Darcy in 1553. Dendrochronological analysis of 36 timbers from the hall and service range, the crosswing and the kitchen range produced a tree-ring chronology for the period AD 1301-1511. The latest timbers were felled in the winter/spring of AD 1511/12. RCHM 4. SOURCES: RCHM interim report on Cann Hall, October 1997. AM Laboratory report 00/98 "Tree-ring analysis of Cann Hall, Clacton, Essex" 1998 5873(Royal Commission on the Historical Monuments of England) An Inventory of Essex North East, 1922 Vol. 3.)

While the proposed dwelling has mostly been positioned behind the existing curtilage-listed barn, due to its massing and the close proximity to the boundary (which does not allow for any form of mitigation), it would be highly visible from Cann Hall. The current proposal is not considered to preserve those elements of the setting that make a positive contribution to the identified heritage asset, or which better reveal its significance.

Following the removal of a number of trees at the west end of the turning head the rear of the curtilage listed barn sited along the east boundary of Cann Hall, is now highly visible in the public domain from many vantage points including Cotman Road to the east. The entire roof of the barn (from eaves level upwards) is visible and occupies almost the full width of the backdrop to the turning head – its appearance is visually enhanced by a number of trees to the sides which provide a 'framing' of the view of the barn. When standing approximately 16m east of the streetlight its height has the perspective of reaching the top of the barn's chimney; the streetlight is in the region of 5m tall and the new dwelling of 7.6m. Views of the left hand third of the barn would be completely obscured by the new dwelling and for this reason it is considered that the siting of the dwelling materially harms the setting of this curtilage listed building.

As the development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the Authority has weighed this harm against the public benefits of the proposal. 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. As the LPA can demonstrate that it does not have a shortfall in housing land supply, there are no public benefits of the proposal that would outweigh the harm caused to the significance of the designated heritage asset. For these reason the proposal is contrary to Policy PPL9 of Section 2 of the Adopted Local Plan and paragraph 206 of the NPPF.

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 6,443 metres from Colne Estuary (Mid-Essex Coast Phase 2) 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.

A unilateral undertaking has not been prepared to secure this legal obligation. This fails to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Public Open Space

Paragraph 56 of the National Planning Policy Framework (2021) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 57 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

Policy DI1 states that all new development should be supported by, and have good access to, all necessary infrastructure. Permission will only be granted if it can be demonstrated that there is sufficient appropriate infrastructure capacity to support the development or that such capacity will be delivered by the proposal. It must further be demonstrated that such capacity, as is required, will prove sustainable over time both in physical and financial terms. Where a development proposal requires additional infrastructure capacity to be deemed acceptable, mitigation measures must be agreed with the Local Planning Authority and the appropriate infrastructure provider. Such measures may include financial contributions towards Open Space.

The Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that no contribution is being requested from Open Spaces on this occasion.

Representations

When a decision is made on a planning application, only certain issues are taken into account; these are often referred to as 'material planning considerations'. The weight attached to material considerations in reaching a decision is a matter of judgement for the decision-taker however the decision-taker is required to demonstrate that in reaching that decision that they have considered all relevant matters. . Generally greater weight is attached to issues raised which are supported by evidence rather than solely by assertion.

Three objections letters have been received in response to the publicity of this application; the contents are summarised as:-.

This is too close to the Grade II listed building Cann Hall	See sections entitled Layout, Scale and Appearance and Heritage Assets above
This will also be an eyesore to the street,	See section entitled Layout, Scale and Appearance above
Overlooking gardens	See section entitled Neighbouring Amenities above
Increasing the issue of traffic in a cul de sac location	See section entitled Highway Considerations above
could have a serious impact on the house prices	Loss of property value is not a material

on the street	consideration in the determination of the planning application.
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6. **Recommendation**

Refusal - Outline

7. **Reasons for Refusal**

- 1 Section 1 Policy SP7 of the 2013-33 Local Plan requires that all new development should protect and enhance assets of historical or natural value. As views of the left hand third of the curtilage listed barn would be completely obscured by the new dwelling; the siting of the dwelling materially harms the setting of this curtilage listed building. For this reason the proposal fails to protect an asset of historical value, contrary to Section 1 Policy SP7 of the 2013-33 Local Plan.
- 2 By reason of the siting of the proposed dwelling significantly obscuring both long and short views of the curtilage listed barn and for failing to preserve those elements of the setting that make a positive contribution to the identified heritage asset, or which better reveal its significance the proposal is contrary to Section 2 Policy PPL9 of the 2013-33 Local Plan and Paragraph 206 of the National Planning Policy Framework 2021.
- 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.

8. **Informatives**

Application Refused Following Discussion – Where there is no Way Forward

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.

Highways:-

- o The proposal is in accordance with the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011
- o In making this recommendation the Highway Authority has treated all planning application drawings relating to the internal layout of the proposal site as illustrative only
- o The proposal should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009
- o All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to development.management@essexhighways.org
- o Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action.

Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available

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