

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case Officer recommendation:	CT	30/11/2022
Planning Manager / Team Leader authorisation:	JJ	30/11/2022
Planning Technician final checks and despatch:	ER	30/11/2022

Application: 22/01358/FUL **Town / Parish:** Clacton Non Parished

Applicant: Redlett Construction Ltd

Address: Land adjoining 7 Crossley Avenue Jaywick Clacton On Sea

Development: Proposed construction of 1no. three-storey house.

1. Town / Parish Council

2. Consultation Responses

UU Open Spaces
06.10.2022

Response from Public Realm
Open Space & Play

Application Details

Application No: 22/01358/FUL

Site Address: Proposed construction of 1no. three-storey house

Description of Development: and adjoining 7 Crossley Avenue
Jaywick Clacton On Sea Essex
Current Position

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

The nearest play space to the development site is located on Marine
Parade West and
Recommendation

No contribution is requested from Open Spaces on this occasion.

Tree & Landscape Officer
23.09.2022

There are no important trees or other vegetation on the application
site.

There is little public benefit to be gained by any new soft landscaping
associated with the development proposal

ECC Highways Dept
30.09.2022

The documents accompanying the planning application have been
duly considered. Given the development is located off Crossley
Avenue, which is a private street, the proposal is acceptable to the

Highway Authority, subject to the following requirements;

1. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator).

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

Informative:

1: 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

2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Representations:

3 letters of objection received:

- Object to principle of 3 storey development at this residential location as the development would be totally out of scale and character with existing housing. TDC is forcing this kind of development on Jaywick to secure against future flood events and this policy should not be at the expense of both the negative visual impacts it is causing and on the mental and physical health of existing residents whereby the new dwelling would appear as a modern eyesore more appropriate to inner cities.
- The proposed dwelling would be forward of the existing 'building line' meaning that it would appear out of keeping with existing dwellings making the streetscene look claustrophobic and meaning that resident cars would have to straddle the pavement.
- The development plot would not afford sufficient private amenity space for the intended occupiers.
- The development would cause significant loss of residential amenity to adjacent neighbours by reason of the proposed

dwelling's 3-storey height, namely overbearing effect and loss of natural light.

3. Planning History

91/01384/FUL	Retention and completion of rear extension and enclosure of front verandah to form porch	Approved	04.02.1992
93/00612/FUL	6' x 8' garden shed	Approved	20.07.1993
90/00298/FUL	Detached dwelling (details following permission TEN/1257/90).	Approved	30.03.1990
21/30015/PREAPP	Proposed development of a 3-bedroom dwelling on land between 7 and 11 Crossley Avenue, Jaywick.	Refused	15.02.2021
22/01358/FUL	Proposed construction of 1no. three-storey house.	Current	

4. Relevant Policies / Government Guidance

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP7	Place Shaping Principles
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP5	Open Space, Sports & Recreation Facilities
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
PP14	Priority Areas for Regeneration
PPL1	Development and Flood Risk

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation

CP1 Sustainable Transport and Accessibility

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

Essex County Council Development Management Policies 2011 (the Highways SPD)

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide for Residential and Mixed-Use Areas

Jaywick Sands Design Guide (Consultation Draft May 2022)

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

NPPF Technical Guidance - Flood Risk

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 that 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

This full application relates to a rectangular and level plot of vacant land measuring approximately 114sqm which exists between Nos.7 and 11 Crossley Avenue on its west side. Crossley Avenue itself runs parallel with Triumph Avenue and Singer Avenue and is typical of the 1930's plotland holiday accommodation which is still prevalent in this western part of Jaywick settlement whereby the street comprises a mix of predominately bungalows on small typically narrow plots, but with a few chalet bungalows. The front section of Crossley Avenue leading off Midway is quite narrow, although the rear section beyond the application site has a slightly more open feel. This Brooklands and Grasslands area has some of the smallest plot sizes and smallest existing homes in Jaywick and has a typically 'radiator grill' layout of narrow streets running north-south.

The site lies within Flood Zone 3a as identified on the government's flood risk map which benefits from sea flood defences and also lies within Settlement Development Boundary 2 of Jaywick as defined within the adopted Tendring District Local Plan 2013-2033 and Beyond (adopted 25th January 2022).

Proposal

The proposal the subject of this application is for the erection of a full 3-storey detached market dwelling with gabled roof which would incorporate an undercroft garage at ground floor level with side external spiral staircase leading up to two bedrooms and a study on the first floor with first floor front balcony and then leading up again to a kitchen/living/dining area with utility rooms with storage on the second floor.

The new dwelling would have stated external dimensions of 10.5m (deep) x 5.6m wide and would have an overall height to the ridge of 12.95m. It is stated that the walls of the dwelling would be externally clad in timber cladding and render and that the roof would be externally clad in tiles and that windows frames would be uPVC double glazed. It is further stated that foul waste and surface water resulting from the development would be disposed off via the Main Sewer.

Appraisal

The key and most important planning considerations in this instance are:

1. Principle of Development
2. Flood Risk
3. Design – Scale, Layout and Appearance
4. Highway Safety, Access and Parking
5. Impact on residential amenity
6. Drainage and Foul Sewage Disposal
7. Financial Contribution - Recreational Disturbance
8. Representations; and,
9. Overall Planning Balance and Conclusions.

Principle of Development

Jaywick Sands was originally built as a seaside resort in the 1930's with small chalet bungalows built on private unadopted streets, this being a classic example of plotland development. Over time, many of the holiday homes were converted to permanent dwellings, partly as a result of people moving from bombed out homes in London during WW2. As the dwellings were never intended as permanent homes with many being of wooden construction, the housing does not meet Building Regulation requirements and the housing infrastructure is sub-standard. The Council's objectives for this area are thus to;

- Transform housing quality and the built environment
- Ensure long term flood resilience
- Create greater connectivity to neighbouring areas
- Attract commerce and new economic opportunities

- Improve people's life chances and access to public services, and health and well-being.

Jaywick Sands is part of Clacton on Sea which is overall categorised as a 'Strategic Urban Settlement' within the adopted Tendring District Local Plan 2013-2033 and Beyond and is also identified as a priority area for regeneration, thus making it a sustainable location for growth whereby Policy SP1 of the adopted Local Plan has a presumption in favour of sustainable development and Policy SP3 sets out the spatial strategy for North Essex. Policy SPL2 states that within Settlement Development Boundaries there will be a general presumption in favour of new development subject to detailed considerations being in accordance with relevant adopted Local Plan policies and relevant standards.

Accordingly, the residential development of this small infill plot within an otherwise built-up frontage along the west side of Crossley Avenue by the erection of a single dwelling as proposed is acceptable in principle against the above policies and also against Policy SP4 which seeks to meet housing needs.

Flood Risk

The NPPF (Para 159 onwards) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). It further states that where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. As such, all planning proposals should apply a sequential, risk-based approach to the location of development, taking into account all sources of flood risk and the current and future impacts of climate change so as to avoid where possible flood risk to people and property.

The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. In this regard, 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.

As outlined above the Council has a 6.66-year land supply. The overall delivery of housing in the district is currently robust, will be provided on sites with a lower probability of flooding (flood zone 1) and this position backed up by numerous recent appeal decisions. The Council can therefore demonstrate a 5-year supply of housing land and therefore the policies for the supply of housing should be considered to be up to date.

The application site is located entirely within Flood Zone 3 as shown on the government's flood risk map.

In accordance with National Guidance, new developments in Flood Zones 3 (at high risk of flooding) will not be permitted unless it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding. As identified above, this applies to defended as well as undefended areas within Flood Zones 2 and 3.

Given the proposal for 1 new residential dwelling, situated on land liable to flooding, a Sequential Test should be undertaken to address the availability of all potential sites within the Tendring District. As this proposal is for market dwelling this area (the District of Tendring) can be accepted as the geographical area over which the test should be applied. There are no functional requirements and objectives of the proposed development (e.g. catchment area for a school, community facilities, a shop, a public house, appropriate land use areas etc.) to justify reducing the search area for the sequential test.

In this case, given the proposal is for one market dwelling, the area to which the Sequential Test should be applied is the entire Local Planning Authority Area of Tendring District Council. No such Sequential Test has been submitted with the application, and as such, the proposal fails to accord with Policy PPL1 and the relevant paragraphs in the NPPF.

It is considered that there are other sites within the District that lie within Flood Zone 1 (at lower risk of flooding) where new dwellings can be provided and that there is no requirement to provide a new dwelling in this location that increases the chances of flooding for one additional household. The proposal therefore fails the Sequential Test for flood risk as set out in the NPPF, as the District's housing need can be met by developments in areas at lower risk of flooding, and the Exception Test as the development would not provide wider community benefits and may not be safe for its lifetime.

Design – Scale, Layout and Appearance

The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities (Para 126, NPPF).

Policy SP7 of the adopted Local Plan states that all new development must meet high standards of urban and architectural design and should reflect the following place shaping principles which are considered to be relevant to this submitted application:

- Respond positively to local character and context to preserve and enhance the quality of existing places and their environs;
- Provide buildings that exhibit individual architectural quality within well-considered public and private realms;
- Include parking facilities that are well integrated as part of the overall design and are adaptable if levels of private car ownership fall;
- Protect the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.

Also of relevance to this proposal is Policy SPL3 (Sustainable Design) which is concerned with the design, character and appearance of new development.

The area of Jaywick in which the application site is situated is predominately 1.0 and 1.5 storey (rooms in roof) dwellings being of the plotland bungalow/chalet bungalow type. Generally, taller dwellings are found along Broadway and in a few specific locations along the seafront and in small pockets of newer dwellings along Lotus Way, including two striking contemporary designed terraced groups of 3-storey dwellings with undercroft garaging of very recent construction which stand at right angles to each other at the junction of Tamarisk Way, Brooklands and Lotus Way. In addition, a prominent row of 5 no. older constructed 1.5 storey detached dwellings with steep pitched roofs which accentuate their height on the skyline extend along the western side of Triumph Avenue, which represents the first avenue of the northern half of the 'radiator grill street layout' before Crossley Avenue to the immediate west.

Given the 1.0/1.5 storey building heights within Crossley Avenue (and indeed within Singer Avenue to the immediate west), the small plot size and narrow width of the application site along with the requirement to create a safe refuge space above the flood datum, it is considered that the maximum height of any new dwelling on the site should be 1.5 storeys whereby a single storey dwelling would not meet the flood risk requirements of the NPPF and Policy PPL1.

The overall scale, massing, height and building form of the proposed full 3-storey height infill dwelling for this size constrained site having a height from ground to the ridge of 12.95m incorporating a side external staircase to the first floor with first floor front balcony would be totally out of scale and character with that of the immediate area resulting in an extremely prominent and overbearing structure which would dominate the neighbouring bungalows and chalet bungalows which in turn would have a visually jarring and disruptive effect within the streetscene to the detriment of the environment of the locality. Accordingly, the proposal would be contrary to the NPPF and contrary to Policies SP7 and SPL3 of the adopted Local Plan.

The Essex Design Guide sets out recommended minimum private amenity standards for new dwellings depending upon housing density size and their bedroom specification where these standards can relate equally to private rear gardens and balconies for example, although should

be provided within a single area and should have adequate privacy, daylight and sunlight. Balconies should be to the front of dwellings to avoid any overlooking to the rear. Policy SPL3 of the adopted Local Plan, however, does not prescribe minimum amenity standards but rather whether the size of the amenity space would be appropriate for future occupants of the dwelling and depending on the general character of the area.

The front balcony shown at first floor level of the dwelling would have a floor area of 8.40sqm, although the dwelling would be afforded some additional private garden amenity space to the rear if this were used which, in this case, if combined, could give the same amount of private amenity space as that afforded to several of the neighbouring plotland bungalows and it is considered in this instance that this potentially combined level of private amenity space would be acceptable for the development.

Highway Safety, Access and Parking

Para 110 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users, whilst Policy SP7 of the adopted Local Plan seeks new development to include parking facilities that are well integrated as part of the overall design. The sentiments of these policies are carried forward to Policies SPL3 and CP1 of the adopted Local Plan. Furthermore, ECC Parking Standards 2009 set out parking standards for new development.

ECC Highways have considered the proposal in terms of the erection of an additional dwelling who have advised that they have no highway safety concerns given that Crossley Avenue is a private street.

The proposed dwelling would have 2 no. bedrooms, whilst the proposed floor plans indicate that 2 no. cars could be parked within the undercroft integral garage to the dwelling. ECC parking standards require that a dwelling with two or more bedrooms require 2 no. on-plot parking spaces of 5.5m x 2.9m. Given the plot size of the site in this location where many of the properties within the general area only have room for one parking space, it is considered that these parking standards can be applied more flexibly with 2 no. spaces required for 3 and 4 bedroomed dwellings, although it would appear that this minimum parking standard could be achieved in any event for this 2 bedroomed specified dwelling. Additionally, bike storage is shown for the new dwelling which would encourage alternative modes of travelling to the motor car for this sustainable location. No objections are therefore raised under Policies SPL3 or CP1.

Impact on residential amenity

Para 130 of the NPPF states 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 residential amenity being afforded for both existing and future users. In addition, Policy SPL3 of the adopted Local Plan seeks to promote development that does not have a materially damaging impact on the privacy, daylight or other residential amenities of occupiers of nearby properties.

Given the small-scale nature of the plot the subject of the current application and that of neighbouring dwellings, particular regard must be given to attempting to minimise any overlooking, dominating effects or loss of privacy and outlook to neighbouring dwellings. As previously mentioned in this report, the proposed 3-storey dwelling would completely dominate this part of Crossley Avenue to the detriment of the streetscene and as a consequence would significantly overshadow the neighbouring bungalows which have small rear gardens as well as having a significant overbearing effect and causing loss of privacy. The proposal would therefore fail to comply with the amenity requirements of Policy SPL3.

Drainage and Foul Sewage Disposal

It is stated that foul waste and surface water from the new dwelling would run to an existing mains sewer rather than to a less preferred means of drainage and no objections are therefore raised to this means of disposal under Policies PPL5 and SPL3.

Financial Contribution - Recreational Disturbance

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation.

The site for the proposed development lies within the Zone of Influence (ZOI) of the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). The residents of the new dwelling are therefore considered likely to regularly visit relevant designated sites within the ZOI for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitat Sites), mitigation measures are needed to be in place prior to occupation.

In order to ensure that the development would not adversely affect the integrity of Habitat Sites in line with Policies SP2 and PPL4 of the adopted Local Plan and Regulation 63 of the Conservation of Habitats and Species Regulations 2017, a proportionate financial contribution in accordance with the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) is required. The current financial contribution per dwelling is set at £137.71 (index linked) and is required to be secured through a Unilateral Undertaking.

The applicant has submitted a Unilateral Undertaking to the Council for this amount as part of the current application which requires the applicant not to commence the development unless and until the said RAMS contribution has been paid. Policies SP2 and PPL4 of the adopted Local Plan are therefore complied with.

Representations

Concerns have been expressed by local residents regarding the scale of the proposed development and also against Tendring District Council's general drive to regenerate Jaywick through the introduction of what is seen as being inappropriate forms of 3-storey housing which, whilst being flood resilient, are also seen as eroding the grain and fabric of the original 1930's settlement and which are seen as being building forms more appropriate for inner cities. Whilst this report cannot comment on the wider regeneration proposals for Jaywick, it is considered that residents are fully justified in their comments and concerns about the specific dwelling proposal for the application site for the reasons given in this report.

Overall Planning Balance and Conclusions

The principle of a new dwelling at this infill site location along the west side of Crossley Avenue within existing settlement limits is acceptable in principle in accordance with NPPF advice and adopted Local Plan policies promoting sustainable forms of development.

However, the development as proposed is unacceptable due to the size, height and scale of the proposed dwelling which in turn would have a detrimental impact on existing residential amenity. Furthermore, the application fails the exception test as required under the NPPF and PPL1 of the adopted Local Plan and will put an additional household at risk of flooding.

The Council has considered the economic benefits of an additional dwelling including the construction jobs, including the design mitigation for having a 3-storey dwelling at this site location whereby the dwelling would have flood resilient measures built in as well as having a means of escape upstairs for future occupiers in the event of a serious tidal flood event. However, fundamentally the proposal constitutes the introduction of a new dwelling in Flood Zone 3 and therefore fails the sequential test. It is considered for this application in conclusion and on balance that the combined negative impacts which would result from the proposed development would outweigh the benefits identified. It is therefore recommended that the application be refused.

6. Recommendation

7. Reasons for Refusal

1. The proposed dwelling as shown on submitted drawings AWA/1139/01, AWA/1139/02, AWA/1139/03, AWA/1139/04, AWA/1139/05 and AWA/1139/06, by reason of both its overall massing and scale at three storey height, and narrow built form thus accentuating its height incorporating a side external spiral staircase leading to first floor level, would be completely out of scale and character with existing housing within the immediate area where surrounding dwellings are either 1.0 or 1.5 storeys in height. The proposal will result in the introduction of an extremely prominent and dominating building which would have a visually jarring and disruptive effect on the existing streetscene to the detriment of the visual amenities of the area. Accordingly, the proposal would be contrary to the National Planning Policy Framework (2021) which promotes good design and contrary to Policies SP7 and SPL3 of the Tendring District Local Plan 2013-2033 and Beyond whereby the development would fail to respond positively to local character and context to preserve and enhance the quality of existing places and thus fail to relate well to the site and its surroundings.
2. The resulting development would have a significant overbearing and overshadowing effect on neighbouring residential properties to the side, front and rear of the site to the detriment of the occupiers of those properties who should be expected to continue to enjoy reasonable levels of residential amenity. The proposal would therefore be contrary to the National Planning Policy Framework (2021) and contrary to Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond which states that new buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents.
3. The proposal results in a new dwelling in an area at high risk of flooding contrary to paragraphs 159 and 161 of the National Planning Policy Framework 2021, which seeks to locate development away from areas which are at the highest risk of flooding. This proposal fails the Sequential and Exceptions Test as set out in the National Planning Policy Framework (2021) and is therefore contrary to policy PPL1 of the Tendring District Local Plan 2013-2033 and the relevant paragraphs of the National Planning Policy Framework (2021) as outlined above.

8. Informatives

The Local Planning Authority has considered the planning merits of the submitted application proposal. However, the issues identified are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward whereby approval has not been possible due to the harm identified within the stated reasons for refusal within the Council's decision notice.