

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case Officer recommendation:	AL	01/12/2022
Planning Manager / Team Leader authorisation:	JJ	01/12/2022
Planning Technician final checks and despatch:	ER	02/12/2022

Application: 21/01585/FUL **Town / Parish:** St Osyth Parish Council

Applicant: T Eldridge

Address: 3 Eastern Promenade St Osyth Clacton On Sea

Development: Proposed replacement dwelling following demolition.

1. Town / Parish Council

St Osyth Parish Council
26.10.2021

INITIAL COMMENTS

22.08.2022
**FOLLOW UP
COMMENTS**

No objections.

Whilst the Parish Council does not have any objections to the application, including the amended design, the Council would request that any windows which would overlook neighbouring properties be fitted with obscure glass.

29.11.2022
LATEST COMMENTS

No objection.

2. Consultation Responses

ECC Highways Dept
02.11.2021

The Highway Authority observes that Eastern Promenade and Mersea View are classified as a Private Roads and would not normally comment, however, Mersea View does form part of public footpath 25 (St Osyth_178). The PROW Planning team have advised that this footpath is incredibly popular with walkers, the public will have accrued rights across the full width by now from wall to wall/kerb. To the rear of the property, you also have public footpath 29 (St Osyth_178). The site will retain off-street parking for the proposed replacement dwelling including a garage and no new or altered means of access is proposed. The site is close to existing bus stop facilities in Point Clear Road, therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. Prior to occupation of the dwelling a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining highway in the interest of highway safety in accordance with policy DM1.

2. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the adjoining carriageway.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

3. Any gates provided at the vehicular access shall be inward opening only and shall be set back a maximum of 0.5 metres from the back edge of the footway or where no provision is present, the carriageway.

Reason: In the interest of highway safety in accordance with policy DM1.

4. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

5. All double garages should have a minimum internal measurement of 7m x 5.5m.

Reason: To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8.

6. The public's rights and ease of passage over public footpath no.25 (St Osyth_178) and public footpath no.29 (St Osyth-178) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies DM1 and DM11.

7. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack 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.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County 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 or by post to:

SMO1 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

2: The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath no. 25 and 29 (St Osyth_178) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.

Note: - in respect of the PROW, any closure/diversion would have to be done legally via a TTRO which has a 12-week lead-in time and this needs to be considered.

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.

Environmental Protection
10.12.2021

Good Morning - with reference to the above application, I can advise that we have had the opportunity to review the proposal and associated documents, and can confirm that the EP Team have the following comments to make:

Should this application be approved, the EP Team are requesting the below be attached as a condition to ensure compliance, and information be submitted prior to the commencement of any development.

Demolition & Construction Method Statement:

Construction Method Statement: The applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Environmental Protection, this document should include, but not be limited to the following information –

-Noise Control

1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00(except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.

3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.

- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

- Emission Control

- 1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- 2) No materials produced as a result of the site development or clearance shall be burned on site.
- 3) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- 4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974)

REASON: In the interest of protecting residential amenity

Environment Agency
06.12.2021
INITIAL COMMENTS

Thank you for your consultation, dated 06 October 2021. Apologies for the delay in our correspondence to this application. We have inspected the application, as submitted, and are raising a holding objection to this application on flood risk grounds as a Flood Risk Assessment (FRA) has not been submitted. The application does not therefore comply with the National Planning Policy Framework (NPPF). Should our objection be overcome we are also requesting a condition related to integrity of defences be appended to any future permission granted.

Flood Risk

Our maps show the application site lies within tidal Flood Zone 3, the high probability zone. Paragraph 167, footnote 55 of the NPPF requires applicants for planning permission to submit a site-specific FRA when development is proposed in such locations.

An FRA is vital if you are to make an informed planning decision. In the absence of an FRA, the flood risk resulting from the proposed development is unknown. The absence of an FRA is therefore sufficient reason in itself for a refusal of planning permission.

Overcoming our Objection

The applicant can overcome our objection by undertaking an FRA that demonstrates that the development is safe without increasing risk elsewhere and, where possible, reduces flood risk overall. If this cannot be achieved, we are likely to maintain our objection to the application. Production of an FRA will not in itself result in the removal of our objection.

We ask to be re-consulted with the results of the FRA. We will provide you with bespoke comments following receipt of formal re-consultation. Our objection will be maintained until an adequate FRA has been submitted.

Advice to Applicant

Our Customers and Engagement team can provide any relevant flooding information that we have available. Please be aware that there may be a charge for this information. Please contact: ensenquiries@environment-agency.gov.uk.

For further information on our flood map products please visit our website at: www.environment-agency.gov.uk/research/planning/93498.aspx

Strategic Flood Risk Assessments (SFRA) are undertaken by local planning authorities as part of the planning process. The SFRA may contain information to assist in preparing site-specific FRAs. Applicants should consult the SFRA while preparing planning applications. Please contact your local authority for further information.

Information on preparing property for flooding can be found in the documents 'Improving the flood performance of new buildings' and 'Prepare your property for flooding'.

We have included a factsheet with our response, which sets out the minimum requirements and further guidance on completing an FRA is available on our website.

Environmental Permitting Regulations

Flood Defence Consents now fall under the new Environmental Permitting (England and Wales) Regulations 2010 system (EPR). The applicant may need an environmental permit for flood risk activities if they want to do work in, under, over or within 16m of the Tidal river and of any flood defence structure or culvert of the North Sea, designated a 'main river'.

The EPR are a risk-based framework that enables us to focus regulatory effort towards activities with highest flood or environmental risk. Lower risk activities will be excluded or exempt and only higher risk activities will require a permit. Your proposed works may fall under an either one or more of the below:

- 'Exemption,
- 'Exclusion',
- 'Standard Risks Permit'
- 'Bespoke permit.

New forms and further information can be found at:
<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>. Anyone carrying out these activities without a permit where one is required, is breaking the law.

Please contact our National Customer Contact Centre to assess which category your proposed works fall under. They will then be able to tell you the classification of your application, the fee associated with your application, and how to proceed forward. They can be contacted by email at: floodriskactivity@environment-agency.gov.uk

Integrity of Defences

Providing that our objection on flood risk grounds is satisfied, we consider that planning permission could be granted providing that revisions are made to plans to ensure that access can be maintained to the embankment in order to allow routine inspections and any future maintenance requirements. We request that the following condition be appended to any future permission granted to ensure that the integrity of defences are protected. We are not raising a holding objection, requiring that the plans are amended, as we consider the necessary revisions to be quite straightforward and therefore to assist in the applicants timescales, we consider this could be achieved through a condition.

Condition

The support structure for the decking to the upper ground floor will need to be a demountable structure in order to allow for access to the embankment for inspections and maintenance.

Reason for Condition

To safeguard against the integrity of the flood embankment defences.

We trust that this advice is useful.

Environment Agency
06.12.2021
LATEST COMMENTS

Thank you for consulting us on the above application. We have reviewed the documents as submitted and can confirm that we have no objection to this planning application, providing that you have taken into account the flood risk considerations which are your responsibility. We have highlighted these in the flood risk section below. You should consider whether the proposed replacement dwelling could include any more flood risk betterment, such as raising finished ground floor level. We have also requested conditions relating to maintenance in our previous letter which we have reiterated below.

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 > Test (s) and be supported by a site specific Flood Risk Assessment (FRA).

To assist you in making an informed decision about the flood risk affecting this site, the key points to note from the submitted FRA, referenced WTFR-FRA-2021/08/Q13 and dated 8th Feb 2022 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 safe refuge 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 however they would overtop in a 1:200 'design' flood event therefore the site is at actual risk of flooding.
- Finished ground floor levels are unknown
- Flood resilience/resistance measures have been proposed
- Finished first floor levels have been proposed at 5.89m AOD and therefore there is refuge above the 0.1% (1 in 1000) annual probability flood level including latest tidal climate change of 5.82m AOD.
- 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 you should determine its adequacy to ensure the safety of the occupants.
- Compensatory storage is not required.

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.

You should determine whether the proposed measures will ensure the safety and sustainability of the proposed development. Consultation with your 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/prepare-your-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 fall back 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 you to provide certainty that the buildings will be constructed to withstand these water pressures.

Safety of Inhabitants - Emergency Flood Plan

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

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

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

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 you consider this when determining the planning application.

Sequential Test / and Exception Tests

The requirement to apply the Sequential Test is set out in Paragraph 158 of the National Planning Policy Framework. The Exception Test is set out in paragraph 160. These tests are your responsibility and should be completed before the application is determined. Additional guidance is also provided on Defra's website and in the Planning Practice Guidance.

Other Sources of Flooding

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

Environmental Permit for Flood Risk Activities

The applicant may need an environmental permit for flood risk activities if they want to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert.

Application forms and further information can be found at:

<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>. Anyone carrying out these activities without a permit where one is required, is breaking the law.

Support structure for the decking to the upper ground floor will need to be a demountable structure to allow for access to the embankment for inspections and maintenance.

Flood Defences

We consider that planning permission could be granted providing that revisions are made to plans to ensure that access can be maintained to the embankment in order to allow routine inspections and any future maintenance requirements. We request that the following condition be appended to any future permission granted to ensure that the integrity of defences are protected. If this condition is not met, we may not be able to issue a Flood Risk Activity Permit.

Condition

The support structure for the decking to the upper ground floor will need to be a demountable structure in order to allow for access to the embankment for inspections and maintenance.

Reason for Condition

To safeguard against the integrity of the flood embankment defences.

We trust the above is useful.

Natural England
21.12.2021

Thank you for your consultation on the above dated and received by Natural England on 09 December 2021

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Natural England's generic advice on other natural environment issues is set out at Annex A.

European sites

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development. To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out.

Sites of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on

statutorily protected sites and has no objection to the proposed development.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

Place Services Ecology
27.5.2022
INITIAL COMMENTS

Holding objection due to insufficient ecological information on designated sites (Habitat sites and SSSI), protected and Priority species and habitats.

Summary

We have reviewed the documents supplied by the applicant, MAGIC maps (<https://magic.defra.gov.uk/>), and aerial photography, relating to the likely impacts of development on protected & Priority habitats and species and identification of proportionate mitigation.

No ecological documents were submitted as part of this application. We note that Colne Estuary Ramsar, SPA and SSSI, and Priority mudflat habitat are directly adjacent to the site of development.

Therefore, we are not satisfied that there is sufficient ecological information available for determination of this application. Furthermore, we recommend that details of a Preliminary Ecological Appraisal undertaken by a suitably qualified and experienced ecologist to assess the likely impacts of the development on designated sites, protected and Priority species and habitats, which should be submitted to inform mitigation and any necessary compensation measures to support determination of this application.

This information is therefore required to provide the LPA with certainty of impacts on legally protected and Priority species and be able to secure appropriate mitigation either by a mitigation licence from Natural England or a condition of any consent. This will enable the LPA to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 and prevent wildlife crime under s17 Crime and Disorder Act 1998.

Additionally, no biodiversity enhancement measures are identified in the documents provided. We recommend that, to secure measurable net gains for biodiversity, as outlined under Paragraph 174d and 180d of the National Planning Policy Framework 2021, reasonable biodiversity enhancement measures will need to be provided.

This is needed to enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

Place Services Ecology
27.5.2022
LATEST COMMENTS

We look forward to working with the LPA and the applicant to receive the additional information required to support a lawful decision and overcome our holding objection.

Thank you for re-consulting Place Services on the above application.

No objection subject to securing biodiversity mitigation and enhancement measures.

Summary

We have reviewed the Preliminary Ecological Appraisal (T4 Ecology, August 2022) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures. We are satisfied that there is sufficient ecological information available for determination of this application. This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

We note the site falls within the evidenced recreational Zone of Influence (ZOI) of Colne Estuary Ramsar and SPA. However, as the proposal is for a replacement dwelling, this is outside the scope of the adopted Essex Coast RAMS and therefore does not trigger a financial contribution towards delivery of visitor management measures.

The mitigation measures identified in the Preliminary Ecological Appraisal (T4 Ecology, August 2022) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly nesting birds. Furthermore, to further mitigate any potential impacts to the Colne Estuary Ramsar and SPA and Priority Mudflat habitat directly adjacent to the site, especially through dust and pollution events, a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) should be produced and secured by condition of any consent.

We also support the proposed reasonable biodiversity enhancements of an open fronted bird box and insect hotels, which have been recommended to secure net gains for biodiversity, as outlined under Paragraph 174d of the National Planning Policy Framework (2021). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006. Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013.

We recommend that submission for approval and implementation of the details below should be a condition of any planning consent.

Recommended conditions

1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

“All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (T4 Ecology, August 2022) as already submitted

with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.”

Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

2. PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY

“A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority”

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

3. PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

“A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter.”

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

3. Planning History

14/01487/FUL	Erection of first floor front elevation extension on steel post supports.	Refused	16.12.2014
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4. Relevant Policies / Government Guidance

National:

National Planning Policy Framework July 2021
National Planning Practice Guidance

Local:

Tendring District Local Plan 2013-2033 and Beyond Section 1 (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
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
LP3 Housing Density and Standards
LP4 Housing Layout
PPL1 Development and Flood Risk
PPL4 Biodiversity and Geodiversity
PPL5 Water Conservation, Drainage and Sewerage
PPL10 Renewable Energy Generation
CP1 Sustainable Transport and Accessibility
CP2 Improving the Transport Network
DI1 Infrastructure Delivery and Impact mitigation

Supplementary Planning Guidance

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

Local Planning Guidance

Essex County Council Parking Standards Design and Good Practice Guide 2009 (Parking SPD)

Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

5. Officer Appraisal (including Site Description and Proposal)

Site Description and Context

The application relates to 3 Eastern Promenade, a detached dwelling located along the coastline at Point Clear Bay, St Osyth. The dwellings along Eastern Promenade are all laid out in a linear fashion following the coastline. To the north/northeast of the site is Orchards Holiday Park. Eastern

Esplanade is a private road but is part of a Public Right of Way which runs along the coast and passes immediately adjacent to the house. A further Public Right of Way runs to rear of the property.
The Proposal

The proposal seeks the erection of a replacement dwelling following demolition of the existing. The proposal would create a 4-bed dwelling. At ground floor level a garage area and utility room would be provided and the main living accommodation would be provided at first and second floor. The proposed dwelling would have a balcony on the rear elevation. The proposed dwelling would consist of a mixture of brick at ground level and fibre cement cladding on the first and second floors together with slate roof tiles and solar panels.

Assessment

The main considerations in this instance are:

1. Principle of Development;
2. Character and Appearance;
3. Living Conditions of Existing and Future Residents;
4. Highways;
5. Financial contributions – Open Space and RAMS;
6. Protected Species and Biodiversity;
7. Flood Risk;
8. Other Considerations; and,
9. Representations.

1. Principle of Development

The proposal seeks to erect a replacement dwelling outside of any defined Settlement Development Boundary. Due to the nature of the proposal being a replacement dwelling, the proposal is considered acceptable in principle subject to detailed consideration against Policy.

2. Character and Appearance

Policy SP7 sets out the place shaping principles all new development should follow. The first bullet point of this policy states that development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Local Plan Part 2 Policy LP4 states that new housing development should deliver new dwellings that are designed to high standards of architecture, which together with a well-considered site layout, create a unique sense of place.

Paragraph 126 of the Framework states that 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. Paragraph 130 of the Framework requires developments are sympathetic to local character and history, including the surrounding built environment, and are visually attractive as a result of good architecture.

The majority of houses along the Esplanade are two storeys with similar relatively narrow fronted dwellings which occupy most of the plot width. Mansard roofs are characteristic of the street. The design of the replacement dwelling has been the subject of protracted discussions between Officers and the applicant. The existing two storey dwelling is proposed to be replaced by a three storey, albeit that the second floor is within the mansard roof. A streetscene drawing was requested to demonstrate how the building would sit within the row of two storey dwellings. Numerous amendments to the design have been negotiated including the reduction in height; omission of dormer windows; replacement of a pitched roof with a mansard roof and further revisions to apply a more traditional mansard roof form; the use of the boarding over the first and second floor elevations; addition of a single central window on the top floor; a front canopy over the garage and ground floor window; and using the boarding over first and second floor elevations to help break up the mass of the building. The resulting building is considered to be acceptable and would sit reasonably comfortably within the streetscene, and which is consistent with the aims of these policies.

3. Living Conditions of Existing and Future Residents

Policy SP7 and emerging Policy LP4 g), and Paragraph 130 f) of the Framework, together seek to ensure high standards of amenity for existing and future occupants.

The proposal seeks to replace the existing dwelling on site. Through negotiation with the agent, the overall height of the replacement dwelling has been reduced, together with some detailed design amendments.

The replacement dwelling is larger in footprint and height in comparison to the existing and directly adjacent neighbouring properties. There are examples of existing and replacement dwellings in differing positions within their plots and of differing height. Overall, there is a mixed residential character. Officers recognise that there will be some degree of impact on sunlight and daylight as a result. However, the amended scheme is of a similar height to other plots in the locality (where replacement dwellings have been built). It would be unreasonable to refuse on this basis and unlikely to be upheld at appeal given the site context.

Furthermore, the replacement dwelling retains ample distance to neighbouring properties; over 3.2 metres from no. 2 and over 2.6 metres to no. 4 Eastern Promenade. Due to the orientation of the dwellings and the positioning of external amenity areas, there will be no significant impact on sunlight or daylight.

Concerning overlooking and loss of privacy, the existing property has a bay window in both side elevations serving a bedroom and kitchen and a further large, side facing window serving the lounge. The proposed replacement will have windows in a similar position, serving a dining area and bedroom, the bedroom window being high level only. The additional windows within the new upper floor will be set into the mansard roof somewhat obscuring views toward neighbouring windows. On the eastern side elevation, the bathroom window will be obscure glazed and the other small window will serve the stairway. To the western elevation will be a central bedroom window where time spent will be minimal as this is not a main living space. Most views possible from these upper floor windows will be toward the roof of neighbouring dwellings with no harmful degree of overlooking possible. For these reasons, the proposed replacement dwelling will not result in any significant harm to neighbouring amenities that would warrant refusal of planning permission.

The property would not be provided with an outdoor private amenity space, other than the balcony. The properties along the Esplanade generally do not have garden areas given the size of the plots and the need to provide parking within them; however the site is immediately adjacent to the esplanade with the coast immediately beyond that. Residents would have access to these amenities instead and when taken with the balcony space it is considered that future occupants would be provided with a good level of amenity.

The Council's Environmental Protection Team will require the submission and approval of a Demolition & Construction Method Statement, secured by planning condition.

4. Highways

Paragraph 110 of the NPPF states that when assessing applications for development the local planning authority must ensure, amongst other things, that a safe and suitable access to the site can be achieved for all users. Paragraph 100 of the NPPF also requires that planning decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users.

Policy CP2 (Improving the Transport Network) of the Part 2 Local Plan states that new development which contributes to the provision of a safe and efficient transport network will be supported.

Essex County Council EPOA Parking Standards requires a minimum of two parking spaces for a dwelling with two or more bedrooms. Parking spaces should measure 5.5m x 2.9m, or where spaces are provided within a double garage measure 7m x 5.5m. The ground floor garage will not provide

parking spaces that comply with the parking spaces as the tandem spaces only measure 10 metres deep. The plans do however show that there remains two parking spaces in front of the garage which would meet the Parking Standard depth of 5.5m. The proposed parking provision is therefore in accordance with the EPOA Parking Standards.

Subject to the conditions recommended (in relation to access and parking standards). The Highway Authority reports that Eastern Esplanade is a Private Road and as such have no comments to make on the vehicular access arrangements. The Highway Authority do however highlight that the public right of way that passes the house is extremely well used. They recommend a condition to ensure suitable pedestrian visibility at the access. However, as the proposal does not include a new or altered means of access, this condition would be unreasonable. A further condition is recommended to state that the Public Right of Way cannot be obstructed. However, a condition is not necessary as this simply repeats other legislation and is unnecessary. Other conditions are recommended to control surface treatment, gates, and the provision of residential travel packs. These will be imposed where necessary but a travel pack is not necessary in this case for a replacement dwelling.

5. Financial contributions – Open Space and RAMS

i) Open Space

This is a replacement dwelling so the development will not create an additional demand for Open Space that would need to be mitigated through the planning permission. For this reason, no financial contribution would be required.

ii) RAMS

The application site falls within the recreational Zone of Influence (ZOI) of Colne Estuary Ramsar and SPA. However, as the proposal is for a replacement dwelling, the proposed development will not result in a net gain of residential dwelling. This means that the development is outside the scope of the adopted Essex Coast RAMS and therefore does not trigger a financial contribution towards delivery of visitor management measures.

6. Protected Species and Biodiversity

Paragraph 180 of the NPPF states that when making planning decisions local planning authorities need to assess whether significant harm to biodiversity could result from the development. Where harm is identified and where this cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort compensated for, then planning permission should be refused.

Policy PPL 4 (Biodiversity and Geodiversity) of the Section 2 Local Plan states, amongst other things, that proposals for new development should be supported by an appropriate ecological assessment. The policy then mirrors Paragraph 180 of the NPPF in setting out the circumstances under which the Council would grant planning permission if ecological harm were identified.

The initial application was not accompanied by any ecological assessment. The Council's Ecologist was concerned that immediately adjacent to the Colne Estuary Ramsar, SPA and SSSI, and Priority mudflat habitat. The applicant subsequently submitted a Preliminary Ecological Appraisal and the application site was found to be of relatively low ecological value, but the PEA identified the sensitivity of coastal habitats adjacent to the site. The Council's ecologist is satisfied with the submitted PEA and recommends that the mitigation measures identified within it should be secured by a condition and implemented in full, to conserve and enhance protected and Priority species particularly nesting birds. Furthermore, to further mitigate any potential impacts to the Colne Estuary Ramsar and SPA and Priority Mudflat habitat directly adjacent to the site, especially through dust and pollution events, a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) should be produced and secured by condition of any consent.

The PEA also recommends biodiversity enhancements including open fronted bird box and insect hotels which will secure net gains for biodiversity. These measures should also be secured by a condition.

7. Flood Risk

The application site is located within Flood Zone 3a (with a 0.5% (1 in 200) annual probability event, including an allowance for climate change). The flood risk is from the sea and due to the low-lying nature of the land. The Environment Agency initially objected to the application as a site-specific Flood Risk Assessment had not been provided by the applicant. This was subsequently submitted and assessed by the Environment Agency (EA). The provided the following summary of the FRA:

- 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 safe refuge as detailed in the below bullet points.
- The site does benefit from the presence of defences however they would overtop in a 1:200 'design' flood event therefore the site is at actual risk of flooding.
- Finished ground floor levels are unknown.
- Flood resilience/resistance measures have been proposed.
- Finished first floor levels have been proposed at 5.89m AOD and therefore there is refuge above the 0.1% (1 in 1000) annual probability flood level including latest tidal climate change of 5.82m AOD.
- 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 you should determine its adequacy to ensure the safety of the occupants.
- Compensatory storage is not required.

There is no objection to the principle of residential redevelopment of the site and it is acknowledged that the dwelling is designed to provide betterment through the inclusion of flood resilience measures and provide occupants with a safe room to shelter in during a flood event.

8. Other Considerations

Amongst other things, emerging Policy PPL10 addresses climate change and energy efficiency measures for residential development involving the creation of one or more dwellings. The application states that they intend to build the dwelling to Code for Sustainable Homes Level 3 and that sustainability measures to be employed at the property include the use of Solar PV panels on the roof.

9. Representations

St Osyth Parish Council raise no objections to the proposal but have recommended that windows within the side elevations be obscure glazed.

One letter of objection has been received from a resident who lives in a neighbouring property. The main grounds for their objection can be summarised as follows:

- The new dwelling will be higher – one floor higher than the neighbours property.
- Loss of natural light and heat from solar gain.
- New dwelling will be built closer to neighbours' property and this will make the path between the properties more dark, damp and slippery and cause loss of outlook.
- Noise and dirt from demolition and construction.
- Failure to respect the building line causing over shadowing of the neighbours' garden and dwelling.

Neighbouring amenity is addressed in the main report above.

10. Conclusion

The proposal is considered acceptable in principle in accordance with the current development plan and the Framework. In the absence of any material harm, the application is recommended for approval.

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 and documents:

- Location Plan – Drawing PO3
- Existing layouts and elevations – Drawing PO2
- Proposed layouts and elevations – Drawing PO1G
- Flood Risk Assessment – WTFR-FRA-2021-08/Q13 dated 8th February 2022
- Preliminary Ecological Appraisal (T4 Ecology, August 2022)

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

- 3 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the adjoining carriageway.

Reason - To avoid displacement of loose material onto the highway in the interests of highway safety.

- 4 Any gates provided at the vehicular access shall be inward opening only and shall be set back a maximum of 0.5 metres from the back edge of the footway or where no provision is present, the carriageway.

Reason - In the interest of highway safety.

- 5 The garage hereby permitted shall only be used for the parking of vehicles or for domestic storage associated with the dwelling and not used for living accommodation.

Reason - To ensure adequate parking and garage space is provided within the site in accordance with the standards adopted by the local planning authority, and in the interests of flood risk and resident safety.

- 6 Prior to above ground works, a scheme for the provision of electric vehicle charging facilities for the replacement dwelling hereby approved shall have first been submitted to and approved in writing by the local planning authority. Thereafter the charging facilities shall be installed in a working order prior to first occupation of the dwelling.

Reason - In order to promote sustainable transport.

- 7 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the approved Preliminary Ecological Appraisal (T4 Ecology, August 2022). This may include the appointment of an appropriately competent person e.g., an

ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason - To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

8 Prior to commencement of development, including demolition or site clearance, a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- Risk assessment of potentially damaging construction activities.
- Identification of "biodiversity protection zones".
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- The location and timing of sensitive works to avoid harm to biodiversity features.
- The times during construction when specialist ecologists need to be present on site to oversee works.
- Responsible persons and lines of communication.
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason - To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species). This information is required prior to the commencement of development to ensure all construction and demolition activities are carried out in appropriate manner and protected and valued habitats are protected.

9 Prior to development above the level of the damp proof course a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- Purpose and conservation objectives for the proposed enhancement measures;
- Detailed designs to achieve stated objectives;
- Locations of proposed enhancement measures by appropriate maps and plans;
- Persons responsible for implementing the enhancement measures;
- Details of initial aftercare and long-term maintenance (where relevant); and,
- The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter.

Reason - To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

10 Prior to the commencement of development, including demolition or site clearance, a Demolition and Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Demolition and Construction Method Statement shall include, but not be limited to the following information:

- Noise Control

- 1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
- 2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00(except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
- 3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.
- 4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
- 5) Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.
- 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

- Emission Control

- 1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
- 2) No materials produced as a result of the site development or clearance shall be burned on site.
- 3) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- 4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

The approved Statement shall be adhered to throughout the demolition and construction phases of development.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

Reason - In the interest of protecting residential amenity.

- 11 Prior to development above damp-proof course level detailed drawings at an appropriate scale showing the demountable support structure for the decking to the upper ground floor shall be submitted and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall thereafter be so maintained.

Reason - To ensure that Environment Agency staff are able to gain access to the embankment for inspections and maintenance and to help safeguard against the integrity of the flood embankment defences.

- 12 Prior to above slab level works, a schedule of the types and colour of the materials to be used in the external finishes has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.

Reason - To ensure that the development does not prejudice the appearance of the locality.

- 13 Notwithstanding the information provided within the accompanying Flood Risk Assessment WFR-FRA-2021-08/Q13 dated 8th February 2022, prior to the occupation of any part of the proposed development, a detailed and property specific flood evacuation plan shall be submitted to and approved in writing with the Local Planning Authority. The plan shall set out how it will be made available to all future occupants of the development hereby approved.

Reason - To ensure that occupants of the development are aware that the site is at risk of flooding.

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.

Environment Agency Informative

The applicant's attention is drawn to the comments of the Environment Agency (dated 13th April 2022) where they state that an environmental permit for flood risk activities may be required. Application forms and further information can be found at: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.

Anyone carrying out these activities without a permit where one is required, is breaking the law.

Highways Informatives

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 or by post to:

SMO1 - Development Management Team, Ardleigh Depot, Harwich Road, Ardleigh, Colchester, CO7 7LT

2. The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath no. 25 and 29 (St Osyth_178) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.
3. The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.

Note: - in respect of the PROW, any closure/diversion would have to be done legally via a TTRO which has a 12-week lead-in time and this needs to be considered.

4. 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.

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