

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case officer recommendation:	MP	29/03/23
Planning Manager / Team Leader authorisation:	AN	30/03/2023
Planning Technician final checks and despatch:	ER	31/03/2023

Application: 22/01619/FUL **Town / Parish:** Clacton Non Parished

Applicant: Phillip Sullivan

Address: Land to The rear of 104 Jaywick Lane Clacton On Sea Essex

Development: Retrospective application for 1no. three bedroom bungalow with garage.

1. Town / Parish Council

Clacton – Non Parished.

2. Consultation Responses

ECC Highways Dept
07.11.2022

The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material. The proposal is located at the end of a cul-de-sac, Blue House Drive, a private road and as such the Highway Authority would not normally comment. The plot is adjacent to previous planning application 20/00780/FUL that was for the construction of 9 three-bedroom bungalows, approved in 2020. It is noted that this is a retrospective application, while the bungalow is provided with a parking space and garage considering these factors:

The Highway Authority does not object to the proposals as submitted.

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.

4: Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

Tree & Landscape Officer
20.10.2022 No trees or other vegetation will be adversely affected by the retention of the existing dwelling.

UU Open Spaces
07.11.2022 Response from Public Realm
Open Space & Play

Application Details

Application No: 22/01619/FUL

Site Address: Land to The rear of 104 Jaywick Lane Clacton On Sea Essex CO16 8BB

Description of Development: Proposed 1no. three bedroom bungalow with garage.
Current Position

There is currently a deficit of '17.68 hectares of equipped play/open space in Clacton-on-Sea.

Recommendation

No contribution is being requested from Open Spaces on this Occasion.

3. Planning History

00/02159/FUL	Replacing existing out-buildings to be used as garage, hay store and cart lodge	Approved	06.02.2001
01/00889/FUL	Resiting of cart lodge and hay store approved under application no. 00/02159/FUL	Approved	25.07.2001
97/00771/FUL	(Land rear of 80/82 Jaywick Lane, Clacton on Sea) Change of use of agricultural land to form part of	Approved	18.11.1997

	riding school. Retention of chicken shed, menage and formation of barn		
99/00735/OUT	Demolition of bungalow and change of use from riding school and stables to form residential development	Refused	29.06.1999
16/01520/FUL	Erection of 21 bungalows and 48 supported living apartments, together with associated access, surface water drainage and other associated development.	Approved	11.05.2017
17/01154/FUL	Variation of condition 2 of 16/01520/FUL to replace the following drawings PA-20, PA-21, PA-22, PA-23, PA-24, PA-25 and PA-26A with PA-20A, PA-21A, PA-22A, PA-23A, PA-24A, PA-25A and PA-26B.	Approved	21.09.2017
17/01159/DISCON	Discharge of condition 25 (Construction Management Statement) of approved planning application 16/01520/FUL.	Approved	26.10.2017
17/01369/DISCON	Discharge of conditions 6 (acoustic screen walls) and 7 (archaeological ground works) of planning permission 16/01520/FUL.	Approved	04.10.2017
19/00958/DISCON	Discharge of conditions 8 (Foul Water Drainage) and 18 (Surface Water Drainage) of planning permission 16/01520/FUL.	Approved	11.10.2019
19/01719/FUL	Removal of condition 05 (number of units) of planning permission 17/01154/FUL.	Approved	10.02.2020

4. Relevant Policies / Government Guidance

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP3 Spatial Strategy for North Essex

SP4 Meeting Housing Needs

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL1 Managing Growth

SPL3 Sustainable Design

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

CP1 Sustainable Transport and Accessibility

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

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

In relation to housing supply:

The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the 'tilted balance').

The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery

Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

5. Officer Appraisal

Site Description

The application site is located on the western side of Jaywick Lane and to the south of the newly developed Bluehouse Drive, within Clacton-on-Sea.

The dwelling subject of this application has already been built and completed, and is surrounded by development, with the properties adjacent approved within planning permission 20/00780/FUL (for 9 bungalows). To the east are larger, detached residential properties fronting onto Jaywick Lane.

The site falls within the Settlement Development Boundary for Clacton-on-Sea within the adopted Local Plan 2013-2033.

Description of Proposal

This application seeks retrospective planning permission for the erection of one dwelling, which is located to the west of Number 104 Jaywick Lane. The dwelling will be single storey and served by three bedrooms.

Assessment

1. Principle of Development

The site is located within the Settlement Development Boundary (SDB) for Clacton-on-Sea, as established in the adopted local plan. Adopted Policy SPL2 states that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local plan policies. As such, at an overarching high level, the principle of residential development on the site is acceptable, subject to the detailed considerations below.

2. Affordable Housing

Adopted Local Plan Policy LP5 states that for development proposals outside of the Tendring Colchester Borders Garden Community, involving the creation of 11 or more (net) homes, the Council will expect 30% of new dwellings, (including conversions) to be made available to Tendring District Council (subject to viability testing) or its nominated partner(s) to acquire at a proportionate discounted value for use as affordable housing.

The site is under the site area threshold and quantum for an affordable housing contribution to apply. Moreover, the land to the north is in separate ownership to the application site and therefore site splitting to avoid an affordable housing contribution is not relevant in this instance.

3. Visual Impacts

Paragraph 130 of the NPPF (2021) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context, and to protect the district's landscape and the quality of existing places and their environs. Policy SPL3 and LP4 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to

high standards and which, together with a well-considered site layout which create a unique sense of place.

The immediate surrounding character consists of predominantly all single storey properties, notably those properties sited adjacent to the north and west of the application site. Within this context the single storey scale proposed as part of this retrospective planning application is acceptable and entirely in-keeping with the character of the area.

In terms of the design, it is noted that it is of a similar appearance to the adjacent properties, and includes features that help break up its overall bulk including a front gable, canopy, conservatory, garage and a good use of materials. Taking all of this into account, Officers do not raise any objections to the buildings design.

Furthermore, the dwelling is served by private amenity space to the side and rear of the property which measures approximately 111sqm in size. This is considered to be of a size and configuration that will appropriately meet the needs and expectations of the future occupants, and which is commensurate to the size of dwelling and the character of the area, in accordance with Policy LP4 of the 2013-2033 Local Plan.

4. Impacts to Neighbouring Amenities

Paragraph 130 of the National Planning Policy Framework (2021) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

The dwelling subject of this application is sited in close proximity to the adjacent dwellings to the north and west, retaining a separation distance of approximately 3.6m and 3m respectively. While Officers raise some concerns that the dwelling appears oppressive, it is noted that the surrounding area is of a high density. Considering this, and the separation distances, on balance the harm identified is not considered to be so significant to justify a reason for refusal. Furthermore, the single storey nature ensures no potential for overlooking.

With respect to the amenities of the occupants of the proposed dwelling, some concerns are raised that the outlook and light to the living room will be insufficient. However, again noting the distance to the north facing neighbouring property, and that this room is served by patio doors (which in turn generate an additional light source), this harm identified is not significantly harmful.

5. Highway Safety

Paragraph 110 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users, whilst Paragraph 104 requires that streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

Adopted Policy CP1 (Sustainable Transport and Accessibility) of the Tendring District Local Plan 2013-2033 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people.

Essex Highways Authority have been consulted and have confirmed they raise no objections.

Furthermore, Essex Parking Standards set out the parking requirements for new development and confirm that for residential properties of two bedrooms or more there should be two parking spaces measuring a minimum of 5.5 metres x 2.9 metres or, if being used as one of the parking spaces, a

garage should measure a minimum of 7 metres x 3 metres. The submitted plans show this is achieved via a garage and space to the front of the garage.

6. Tree Impacts

The Council's Tree and Landscape Officer has been consulted, and has confirmed there will be no trees or other vegetation will be adversely affected by the retention of the existing dwelling.

7. Drainage

Paragraph 174 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 185 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

Policy PPL5 of Section 2 of the adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.

The agent for the application has confirmed via an email dated 18th October 2022 that the development would be connected to the existing public foul sewer. This is in accordance with the above policy requirements and is therefore considered to be acceptable in the event of an approval.

8. Financial Contributions - Open Space and RAMS

(i) Open Space

Paragraph 55 of the National Planning Policy Framework (2021) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 57 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

Section 2 Policy HP5 states that the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update.

Policy DI1 states that all new development should be supported by, and have good access to, all necessary infrastructure. Where a development proposal requires additional infrastructure capacity to be deemed acceptable, mitigation measures must be agreed with the Local Planning Authority and the appropriate infrastructure provider. Such measures may include financial contributions towards new or expanded facilities and the maintenance thereof. For the purposes of this policy, the widest reasonable definition of infrastructure and infrastructure providers will be applied. Section 106 will remain the appropriate mechanism for securing financial contributions. The contribution would be used towards the delivery of improvements, expansion or new open spaces and/or sports facilities.

The Council's Public Realm consultee identifies that there is currently a deficit of 17.68 hectares of equipped play in Clacton-on-Sea, however no contribution is requested on this occasion.

(ii) Habitat Regulations Assessment

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 application scheme proposes a residential on a site that lies within the Zone of Influence (Zoi) being approximately 3.6k away from Colne Estuary SPA, SAC and Ramsar. New housing development within the Zoi would be likely to increase the number of recreational visitors to these sites and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

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

9. Renewable and Energy Conservation Measures

Paragraph 112 of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. However, recent UK Government announcements that ULEV charging points will become mandatory for new development have yet to be published.

Policies PPL10 and SPL3, together, require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.

The proposal includes a new roof space which has the potential to incorporate solar photovoltaic installation and rainwater capture, and car parking areas have the potential for the provision of ULEV charging points for electric cars. While the application is in retrospective form, it is still necessary and reasonable for Officers to insist on a condition for renewable energy generation solutions to be incorporated within the design, in order to meet the policy requirements. Such details shall be submitted to the Local Planning Authority within two months of the date of this decision.

Other Considerations

Clacton-on-Sea is non-parished, so no comments are expected.

There have been no other letters of representation received.

Conclusion

The application site falls within the Settlement Development Boundary for Clacton-on-Sea, and therefore the principle of development in this location is accepted. Officers consider that the design is an acceptable and in-keeping addition, while on balance the level of harm to amenities to neighbouring properties as well as occupants of the dwelling subject of this application is not so significant that it warrants recommending a reason for refusal. In addition, Essex Highways Authority and the Council's Tree and Landscape Officer raise no objections. Accordingly, this retrospective application is considered to be policy compliant and therefore recommended for approval.

6. Recommendation

Approval.

7. Conditions

1 APPROVED PLANS & DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

Drawing Numbers 3621-PA-LOC, PA-10 and PA-11.

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

- 2 CONDITION: Within two months of the date of this planning permission, a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development shall be submitted to the Local Planning Authority for approval. The scheme such include as a minimum to achieve:-

- Agreement of carbon level
- Agreement of provisions to ensure the development is zero carbon ready
- An electric car charging point per dwelling
- A Water-butt per dwelling
- Compost bin per dwelling
- Agreement of heating of each dwelling/building
- Agreement of scheme for waste reduction

The scheme shall be fully implemented within two months of the date of the approval of these details, unless otherwise agreed in writing by the Local Planning Authority. The scheme shall be constructed and the measures provided and made available for use as may be agreed and thereafter shall be maintained.

REASON: To enhance the sustainability of the development through better use of water, energy and resources reduce harm to the environment and result in wider public benefit in accordance with the NPPF.

NOTE/S FOR CONDITION:

The greatest threat to our planet is the belief that someone else will save it and also forgetting that small acts, when multiplied by millions of people, can transform the world. Developments will provide buildings/homes to thousands/millions of people over their lifetime. A well designed sustainable development in the beginning will restrict the contribution each person makes to that threat and help enable them to transform the world.

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.

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.

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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.

4: Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.