

DELEGATED DECISION OFFICER REPORT

| AUTHORISATION | INITIALS | DATE |
|--|----------|------------|
| Case officer recommendation: | AP | 12/9/2023 |
| Planning Manager / Team Leader authorisation: | ML | 13/09/2023 |
| Planning Technician final checks and despatch: | JJ | 13/09/2023 |

Application: 23/00752/FUL **Town / Parish:** Clacton Non Parished

Applicant: Mr Cemal Djemal

Address: Land rear of 152 and 154 St Osyth Road Clacton On Sea

Development: Proposed two bedroom detached dwelling.

1. Town / Parish Council

No Parish or Town
Council

2. Consultation Responses

ECC Highways Dept
05.07.2023

The information submitted with the application has been assessed by the Highway Authority and conclusions have been drawn from a desktop study with the observations below based on submitted material and google earth image dated October 2012. No site visit was undertaken in conjunction with this planning application. It is noted that the application is similar to an earlier application: 22/01246/FUL that the Highway Authority did not object to. As per the previous application, adequate off-street parking has been provided for the host and proposed dwelling off Carrs Road, considering these factors:

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 public highway in the interest of highway safety in accordance with policy DM1.

2. Prior to occupation of the development the existing vehicular access shall be widened and constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall be agreed with the highway authority and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1.

3. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

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

4. Any part of the existing vehicle accesses within Carrs Road adjacent to no. 150 St Osyth Road, shown on the site layout plan (DWG. 27-2022-01 PD) that are redundant shall be suitably and permanently closed incorporating the reinstatement to full height of the footway / kerbing immediately the proposed new accesses are brought into first beneficial use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety in accordance with policy DM1.

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

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

6. Prior to the first occupation of the new dwelling, the existing lamp column no.02 located in front of the proposed drop kerb on Carrs Road and across the proposed vehicular access shall be moved at the applicant's expense in consultation with the Highway Authority.

Reason: To ensure that all vehicular traffic using the accesses may do so in a controlled manner and without obstruction, in the interests of highway safety and in accordance with Policy DM 1 and 17.

Note: The developer will need to liaise with the Development Management Team by email at development.management@essexhighways.org prior to any Minor Works Authorisation being granted.

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: In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and public car parking facilities.

2: 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

3: 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.

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.

Tree & Landscape Officer
30.06.2023

No trees or other significant vegetation will be affected by the development proposal.

Environmental Protection
12.07.2023

With reference to the above application; please see below for comments from the EP Team:

Contaminated Land: Given the sites is located within close proximity to contaminated land (historic land fill site <100m) - the EP Team are requesting a minimum of a Phase One Contaminated Land Survey be performed, to ensure the land is suitable for the proposed end use - The following works shall be conducted by competent persons and in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and other current guidance deemed authoritative for the purposes. The development hereby permitted shall not commence until the measures set out in the approved report have been implemented.

A. Site Characterisation

Notwithstanding the details submitted with this application, no development shall commence other than that required to carry out additional necessary investigation which in this case includes demolition, site clearance, removal of underground tanks and old structures until an investigation and risk assessment has been submitted to and approved in writing by the local planning authority. The risk assessment shall assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include:

- (i) a survey of extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - Human health,
 - Properly (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - Adjoining land,
 - Groundwaters and surface waters,
 - Ecological systems
 - Archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

REASON - To ensure that any risks (to future users of the land and neighbouring land and to controlled waters, property and ecological systems) arising from any land contamination are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Construction Activities: In order to minimise potential nuisance caused by demolition/construction works, Environmental Protection recommend that the following below is conditioned;

- 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 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.
- No materials produced as a result of the site development or clearance shall be burned on site.

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: to protect the amenity of nearby residential premises

UU Open Spaces
26.07.2023

Public Realm Assessment

Play Space - current deficit:

- Deficit of 2.22 hectares of equipped play in Clacton

Formal Play - current deficit:

- Adequate formal open space in the area to cope with some future development

Settlement provision:

- Rush Green LEAP & Open Space 0.6 miles from development site
- Windsor Avenue LEAP and Recreation Ground 0.4 miles from development

Officer Conclusions and Recommendations

Contribution necessary, related, and reasonable?
to comply with CIL Regs*

- No contribution is being requested on this occasion.

Identified project*:

(In consultation with Town / Parish Council on upcoming projects or needs for maintenance)

- N/a

3. Planning History

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|--------------|---|-----------|------------|
| 22/02041/FUL | Proposed 1 bedroom detached dwelling. | Withdrawn | 03.03.2023 |
| 23/00752/FUL | Proposed two bedroom detached dwelling. | Current | |

4. Relevant Policies / Government Guidance

National:

National Planning Policy Framework July 2023 (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
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- HP5 Open Space, Sports & Recreation Facilities
- PPL1 Development and Flood Risk
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL10 Renewable Energy Generation
- CP1 Sustainable Transport and Accessibility
- DI1 Infrastructure Delivery and Impact Mitigation

Supplementary Planning Documents

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

Local Planning Guidance

Essex 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), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) 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.

Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

5. Officer Appraisal

Proposal

The application proposes the erection of detached 2 bed chalet bungalow with off road parking and private amenity space.

The application site is formed from parts of the rear gardens of 152 and 154 St Osyth Road which can be accessed from Carrs Road to the east. The surrounding area is predominantly residential with some small shops dotted along St Osyth Road serving the community.

Principle of development

The site lies within the settlement development boundary. Policy SPL2 states that within the settlement development boundary there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies. Policy SP3 states that existing settlements will be the principal focus for additional growth across the North Essex Authorities area within the Local Plan period. The principle of a new dwelling is therefore accepted subject to the detailed considerations below.

It is noted there are no neighbourhood plans to consider.

Design and scale

The proposal comprises a two-bedroom detached bungalow finished in red brick under a slate hipped roof, with modest sized dormers finished in painted render. The smaller scale of the bungalow mirrors that on the opposite side of Carrs Road taking note of the red brick finish and hipped roof.

The garden land is occupied by household paraphernalia, refuse and a brick garage building and there is no vegetation on the site or nearby. There are limited opportunities for landscaping however a condition will be imposed on any grant of planning permission for details of soft landscaping which is sufficient to secure an appropriate level of new planting that will adequately soften and enhance the appearance of the proposed development.

The scale, layout and design of the new dwelling is not considered to cause any material harm to visual amenity.

Impact to Residential Amenities

As a result of the low eaves height and hipped roof design there is no significant loss of light to any neighbouring dwellings. The rear dormer window serves the first-floor bathroom and will be obscure glazed. This can be secured by condition on any grant of planning permission. The front dormer window faces Carrs Road and serves a bedroom as does the side facing rooflight. The second side facing rooflight is over the stair well. The side facing rooflights do not serve rooms which will be habitable during the day and therefore it is considered that there will be no significant loss of privacy or risk of overlooking caused by the proposal.

Policy LP3 requires compliance with the nationally described space standards. This standard deals with internal space within new dwellings and is suitable for applications across all tenures. It sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height. A two-bedroom, three person two storey dwelling requires a minimum of 70 square metres of gross internal floor space which includes built in storage of 2 square metres. From the plans submitted the proposal meets the requirements of the space standards. It is also considered that the internal layout is appropriate, with all habitable rooms having adequate natural light.

At least 75 square metres of private amenity space will be provided at the new dwelling and sufficient private amenity space is retained at 152 and 154 St Osyth Road.

Highway safety

The host dwelling of 154 St Osyth Road has existing off road car parking in front of the house ensuring no loss of car parking for this dwelling. As a result of the proposal 152 St Osyth Road will lose the current dropped kerb access from Carrs Road which provides off road car parking to the rear of the dwelling, however the application proposes a new vehicular access to the south of the existing one to create two off road car parking spaces for 152 St Osyth Road. The proposed dwelling will utilise the existing dropped kerb and one off road car parking space will be provided in front of the new dwelling.

Essex County Council as the Highway Authority were consulted on the application and confirmed that the proposal is acceptable from a highway and transportation perspective subject to conditions relating to pedestrian visibility splays, alteration to the existing access, no unbound materials, provision of a residential travel pack, redundant existing vehicular access to be closed and relocation of the lamp column. There will be no existing vehicular access that will be redundant and therefore it is not necessary to impose a condition in this respect. It is considered reasonable and necessary to impose the other recommended conditions on any grant of planning permission.

Financial Contribution - Recreational Disturbance

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

The application scheme proposes one new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 5558m away from Colne Estuary (Mid Essex Coast Phase 2) SPA, Mid Essex Coast Phase 2 RAMSAR and Essex Estuaries (SPA). However, new housing development within the Zol would be likely to increase the number of recreational visitors to Hamford Water; 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.

Financial Contribution - Open Space

The Open Space team confirm there is currently a deficit of 2.22 hectares of play space in Clacton. However, no contribution is being requested from Open Spaces on this occasion.

Drainage and Sewerage

Policy PPL5 states that all new development must make adequate provision for drainage and sewerage.

The sewerage from the proposed dwelling will be connected to the mains sewer which is considered the preferred approach and acceptable.

Renewable Energy

Chapter 14 of the National Planning Policy Framework supports the transition to a low carbon future in a changing climate while Policy PPL10 of the Local Plan supports renewable energy generation and energy efficiency measures for residential development.

The submitted Design and Access Statement confirms only the provision of an electric vehicle charging point which can be secured by condition prior to occupation on any grant of planning permission.

No other energy efficiency measures have been submitted with the planning application and therefore a condition to secure minimum measures of a water-butts and compost bin, agreement of heating for the dwelling and a scheme for waste reduction will be secured on the grant of planning permission to reduce the demand for fossil fuels which are a finite resource and release carbon into the atmosphere and accelerate global warming contributing to climate change.

Flood Risk

Paragraph 167 of the NPPF states: When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.

Local Plan Section 2 Policy PPL1 states: All development proposals should include appropriate measures to respond to the risk of flooding on and/or off site. All development proposals will be considered against the National Planning Policy Framework's 'Sequential Test', to direct development toward sites at the lowest risk of flooding, unless they involve land specifically allocated for development on the Policies Maps or Local Maps.

The application site lies within Flood Zone 1 which has a low probability of flooding from rivers and the sea. However, as per footnote 55 of the NPPF in Flood Zone 1 an assessment should accompany all proposals involving land which has been identified by the Environment Agency as having critical drainage problems; or land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where development would involve a more vulnerable use.

Buildings used for dwellinghouses are classified in Annex 3: Flood risk vulnerability classification of the NPPF as 'more vulnerable'.

The application site is identified within the Clacton on Sea Surface Water Management Plan (SWMP) study area as falling within a Critical Drainage Area (CDA). A CDA is a discrete geographic area (usually a hydrological catchment), within the SWMP Study Area where multiple or interlinked sources of flood risk cause flooding during a severe rainfall event thereby affecting people, property,

or local infrastructure. 3 CDA's have been identified within the study area of Clacton and around 250 residential properties identified as being at risk of surface water flooding during a 1 in 100 year storm, or 1% Annual Exceedance Probability (AEP). This has potential to increase to around 580 residential properties should the upper limit of 40% be considered to account for future climate change. There is a history of surface water flooding within the area that reinforced the Lead Local Flood Authority's decision to conduct a more detailed study here.

Paragraph 159 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). In view of the location of the site within the CDA; on land identified within the Clacton SWMP as being at increased flood risk in the future; and also involving a more vulnerable use it is necessary to carry out a Sequential Test as part of an FRA.

Paragraph 162 of the NPPF states the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

The applicant has not provided an FRA or applied the sequential test and therefore the Local Planning Authority does not have a suitable basis for assessment to be made of the flood risks arising from the proposed development. It is however considered that the sequential test would be failed as there are numerous sites available for the construction of a single dwelling within Flood Zone 1 and outside of any identified area of surface water flood risk within the town of Clacton-on-Sea, and beyond.

The proposed development is therefore contrary to Adopted Policy PPL1 of the Tendring District Local Plan 2013-2033 and Beyond, the National Planning Policy Framework and Planning Policy Guidance.

Other considerations

The Council's Environmental Protection team have confirmed that the sites close proximity to contaminated land necessitates a Phase 1 Contaminated Land Survey to be completed prior to commencement of any development on the site. This requirement would be imposed as a condition on any grant of planning permission. In addition, conditions that controls the hours of construction and restricts burning of materials on the application site are recommended and shall be imposed upon the grant of planning permission.

As the site is clear of existing vegetation there are no ecological concerns.

6. Recommendation

Refusal - Full

7. Reasons for Refusal

1. The application site is identified within the Clacton on Sea Surface Water Management Plan (SWMP) study area as falling within the Critical Drainage Area (CDA) and at increased flood risk in the future. The proposed dwelling is also classified as a more vulnerable use. It is therefore necessary to carry out a sequential test as part of a site-specific Flood Risk Assessment (FRA) to direct development toward sites at the lowest risk of flooding, and to ensure that flood risk is not increased elsewhere.

The applicant has not provided an FRA or applied the sequential test and therefore the Local Planning Authority does not have a suitable basis for assessment to be made of the flood risks arising from the proposed development. It is however considered that the sequential test would be failed as there are numerous sites available for the construction of a single dwelling within Flood Zone 1 and outside of any identified area of surface water flood risk within the town of Clacton-on-Sea, and beyond.

The proposed development is therefore contrary to Adopted Policy PPL1 of the Tendring District Local Plan 2013-2033 and Beyond, the National Planning Policy Framework and Planning Policy Guidance.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.

Plans and Supporting Documents

The Local Planning Authority has resolved to refuse the application for the reason(s) set out above. For clarity, the refusal is based upon the consideration of the plans and supporting documents accompanying the application as follows, (accounting for any updated or amended documents):

- Drawing No. 27-2022-03PD
- Drawing No. 27-2022-01PE
- Drawing No. 27-2022-02PE
- Design and Access Statement

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| <p>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</p> | <p>YES</p> | <p>NO</p> |
| <p>Are there any third parties to be informed of the decision? If so, please specify:</p> | <p>YES</p> | <p>NO</p> |