

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	OA	08.04.2024
Team Leader authorisation / sign off:	JJJ	11/04/2024
Assistant Planner final checks and despatch:	ER	11/04/2024

**Application:** 24/00030/VOC **Town / Parish:** St Osyth Parish Council

**Applicant:** Mr Joshua Finbow

**Address:** 35 Tower Estate St Osyth Clacton On Sea

**Development:** Variation of conditions 2, 5, 6 and 7 of planning permission 21/02177/FUL for the approved plans to be changed for new plans and updated plans now to show 1.8m obscure glazed balcony side screen to protect privacy of No.36 and location and style of windows changed.

### 1. Town / Parish Council

St Osyth Parish Council      No objections.

### 2. Consultation Responses

Tree & Landscape Officer  
26.01.2024      No trees or other significant vegetation will be adversely affected by the development proposal.

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

ECC Highways Dept  
13.02.2024      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 thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated April 2022.

Given Tower Estate is a private cul-de-sac, the proposal is acceptable to the Highway Authority.

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](mailto: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.

Environmental Protection

No response

ECC SuDS Consultee  
23.02.2024

Thank you for consulting us on 24/00030/VOC. However, as 21/02177/FUL was a minor application (173.12 sqm site area) for the construction of one dwelling, and as no SuDS conditions were included within the decision notice for the full application, we do not wish to comment in this instance.

Anglian Water Services  
Ltd

No response

UU Open Spaces  
16.02.2024

No further comments from open spaces.

Environment Agency

### 3. Planning History

21/02177/FUL	Demolition of existing dwelling and construction of a new dwelling.	Approved	11.05.2022
24/00030/VOC	Variation of conditions 2 and 7 and removal of condition 6 of planning permission 21/02177/FUL for the approved plans to be changed for new plans and updated plans now to show 1.8m obscure glazed balcony side screen to protect privacy of No.36 and location and style of windows changed.	Current	

### 4. 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.

### 5. 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>

### 6. Relevant Policies / Government Guidance

National

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
- 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
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL1 Development and Flood Risk
- PPL2 Coastal Protection Belt
- CP1 Sustainable Transport and Accessibility

## **7. Officer Appraisal**

### Site Description

The application site is 35 Tower Estate, which is located south west of Tower Estate, located outside the settlement development for the area as defined within the Local Plan 2013-2033. It is located within Flood Zone 3 and within the Coastal Protection Belt. The area surrounding the site has a variety of different types of properties, all in close proximity to each other.

The existing dwelling is detached and built across two floors with external steps to the side of the dwelling leading to a raised patio. The patio has a gate which leads to a public footway and the sea wall.

### Planning History and Background

Planning permission was granted in May 2022 for a replacement dwelling (21/02177/FUL). This permission carried 11 Conditions. Conditions 2, 5, 6 & 7 were imposed relating to approved plans, obscure glazed windows and balcony glazing.

### The Proposal

This current application is made under Section 73 of the Town and Country Planning Act, to allow a Variation of conditions 2, 6 and 7 of application 21/02177/FUL. Condition 2 lists the approved plans and documents. Condition 6 states that the windows shown on Drawing No. P510 to the upper ground floor serving the kitchen and living/dining area and the windows shown to the first floor side elevation serving the bathroom and kitchen, shall be non-opening below 1.7 metres above finished floor level and glazed in obscure glass prior to first occupation and shall thereafter be permanently retained in this approved form. Condition 7 states that the balcony shown on drawing no. P505 shall be glazed in obscure glass to a height of 1.8 metres on the South Easterly elevation prior to the balcony's first use and shall thereafter be permanently retained in this approved form.

The list below highlights the proposed changes to the originally approved application:

- Amendments to Landscaping to be replaced with increased area of SUDS Porous concrete
- Relocation of front door
- Internal wall/room layout and associated window positions
- Front garage doors giving increased access to boat/car storage
- Obscure glazing to bathroom, kitchen and hallway windows
- View limited shuttering to side elevation windows affecting viewing area
- Balcony: 0.4m increase in depth. Addition of 1.8m view limiting screen to SE side.

### Assessment

The main considerations for this application are:

- Principle of development
- Design and Appearance
- Residential Amenities
- Other Considerations

### Principle of development

The principle of development has been established by the granting of full planning permission for a replacement dwelling. The proposal is acceptable in principle subject to meeting certain criteria and policy considerations outlined below.

### Design and Appearance

Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Emerging Policies SPL3 and LP4 of Section 2 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, create a unique sense of place - avoiding the use of ubiquitous standard house types. Paragraph 135 of the Framework requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

In addition to the overarching Policy SP7 with regard to design, appearance and landscape character outlined above, more specifically extensions to or the replacement of a dwelling outside defined settlement development boundaries should be assessed in line with Policies PPL3 and SPL3 Part A (Design). These policies are concerned with the design, character and appearance of new development and its impact on local landscape character and the protection of the rural landscape.

The proposed design changes involve the relocation of doors and windows and amendments to the approved balcony which will not significantly alter the approved design. Therefore, conditions 2, 5, 6 and 7 can be varied without being contrary to the above policies and would not result in overriding harm to the character of the surrounding area.

### Residential Amenities

Paragraph 135 of The Framework maintains that policies and decisions should result in new development that creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy SPL3 seeks new development that does not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

To the north westerly side elevation is number 34 Tower Estate. The previous scheme included three side elevation windows serving the stairs/hall, kitchen and living/dining area. These have been amended to include a high level bedroom window, and two kitchen windows which will be obscure glazed. External angled limited view shuttering will be installed to the window affecting the view seating area. Given these changes it is considered acceptable that Condition 6 can be varied from

the approved scheme. The revised scheme does incorporate a balcony however the balcony has a partial screen which will help to limit any views onto neighbouring amenities.

To the south easterly side elevation is number 36 Tower Estate. The previous scheme included a window to serve the bedroom on the first floor however internal layout alterations and now a high level narrow vertical window serving the staircase is proposed. This will be obscure glazed to protect neighbouring amenity. External angled view limited shuttering will be installed to the window affecting the view seating area. There is a balcony proposed to the first floor and a condition will be imposed to ensure that a privacy screen is installed and retained to ensure that there is no overlooking onto neighbouring amenities. It is therefore considered that the proposal will not cause any significant impact upon neighbouring amenities.

#### Highway Safety and Parking Provision

Paragraph 114 of the Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SP7 seeks new development to include parking facilities that are well integrated as part of the overall design. The sentiments of this policy are carried forward within Policies SPL3 and CP1. Furthermore, the Essex County Council Parking Standards 2009 set out the parking requirements for new development.

Essex Highways Authority have been consulted on this application and have stated that given Tower estate is a private cul de sac, the proposal is acceptable to the Highway Authority.

The proposed replacement dwelling now includes a garage and parking to the front of the property which can accommodate two parking spaces in line with Essex Parking Standards.

#### Trees and Landscaping

Policy SPL3 seeks new development that respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. The design and layout of the proposed development should maintains or enhance important existing site features of landscape, ecological, heritage or amenity value.

No trees or other significant vegetation will be adversely affected by the development proposal. There is little opportunity or public benefit to be gained by new soft landscaping associated with the development proposal.

#### Other Considerations

St Osyth Parish Council have no objections to this application

Two letters of representation have been received objecting to the proposals, the comments are summarised as below:

- Construction vehicle traffic
- Damage to road surface

In response to these objections, a Construction Method Plan was conditioned as part of the approved consent 21/02177/FUL (Condition 10). This ensures that details shall be provided for safe access/to from site prior to works commencing on site. In addition, ECC raises no objecting in terms of safe access to/from the site.

## **8. Recommendation**

Approval - Full

## **9. Conditions / Reasons for Refusal**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of the previously approved planning permission of 21/02177/FUL

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:

- Drawing No. P501-23 - Proposed Site Plan
- Drawing No. P503-23A - Proposed Amendments to Lower Ground and Upper Floor Plan
- Drawing No. P505-23A - Proposed Amendments to First Floor Plan and Roof Plan
- Drawing No. P510-23A - Proposed Elevations Amendments
- Flood Risk Assessment

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

- 3 A Watching Brief shall be undertaken throughout the construction phases of the development hereby approved. In the event of unexpected ground conditions being encountered at any time during construction, all site works at the position of the suspected contamination shall stop and the local planning authority and environmental protection team notified. The following minimum requirements for dealing with unexpected ground conditions being encountered during construction shall be adhered to throughout and evidence of each stage reported in writing to the local planning authority for approval:

1. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
2. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
3. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
4. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
5. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
6. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
7. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
8. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
9. A photographic record will be made of relevant observations.
10. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be: -re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or - treatment of material on site to meet compliance targets so it can be re-used; or -removal from site to a suitably licensed landfill or permitted treatment facility.
11. A Verification Report will be produced for the work.

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

- 4 All new hard surfaced areas shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the site.

Reason - In the interests of sustainable development and to ensure that run-off water is avoided

- 5 Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), the windows shown on Drawing No. P510-23A to the first floor south eastern side elevation serving the hallway shall be glazed in obscure glass and the window to the most seaward side window shall be installed with view limiting angled external shutters prior to first occupation and shall thereafter be permanently retained in this approved form.

Reason - To protect the privacy and amenities of the occupiers of the neighbouring property.

- 6 Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), the windows shown on Drawing No. P510-23A on the north west side elevation serving a bathroom and two kitchen windows shall be glazed in obscure glass and the window to the most seaward side window shall be installed with view limiting angled external shutters prior to first occupation and shall thereafter be permanently retained in this approved form.

Reason - To protect the privacy and amenities of the occupiers of the neighbouring property.

- 7 Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), the balcony screen shown on the proposed SE side elevation on drawing no. P510-23A shall be glazed in obscure glass - Pilkington level 5 to a height of 1.8 metres prior to the balcony's first use and shall thereafter be permanently retained in this approved form.

Reason - To protect the privacy and amenities of the occupiers of the neighbouring property.

- 8 No excavations of existing back slope of embankment are permitted within a 45 degree repose from the junction of the property boundary and the property boundary and the promenade.

Reason- To ensure protection of the flood defences

- 9 There shall be no overhang of any part of the development or other paraphernalia at any time onto the crest of the seawall as this could impact access for maintenance.

Reason- To ensure access for the maintenance of the flood defences is kept clear.

- 10 No development shall take place, including any ground works or demolition, until a Construction Management Plan and associated site layout plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:

- safe access to/from the site;
- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;

- the storage of plant and materials used in constructing the development;
- wheel washing facilities;
- measures to control the emission of dust and dirt during demolition and construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- details of hours of deliveries relating to the demolition and construction of the development;
- details of hours of site clearance or construction;
- a scheme to control noise and vibration during the demolition and construction phase, including details of any piling operations.

Reason - In the interests of residential amenity and highway safety.

- 11 The hereby approved development shall only be implemented in full accordance with the previously agreed Flood Warning & Evacuation Plan updated April 2022. The Flood Warning Evacuation Plan shall remain in force for the duration of the occupation period and shall remain a live document and be updated where required.

Reason - The site is at risk from flooding and a detailed evacuation plan is essential to safeguard future occupiers of the development.

## **10. Informatives**

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.

## **11. Equality Impact Assessment**

In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic\* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic\* and those who do not, including tackling prejudice and promoting understanding.

In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic\* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact (As known with application)
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral



and ethnic or national origin)		
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

**12. Notification of Decision**

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