

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	OA	31.05.2024
Team Leader authorisation / sign off:	JJJ	05/06/2024
Assistant Planner final checks and despatch:	JJ	06/06/2024

Application: 24/00361/FUL **Town / Parish:** St Osyth Parish Council

Applicant: Mr Jack Nethercott - Prime Oak

Address: Linshire Heath Road St Osyth

Development: Planning Application - erection of 1 x dwelling following removal of existing mobile dwelling.

1. Town / Parish Council

St Osyth Parish Council No objection

2. Consultation Responses

Tree & Landscape Officer
24.04.24

The application site currently forms part of the residential curtilage of the host property and is well populated with small to medium sized trees and shrubs. The boundary adjacent to the highway is demarcated by an established hedgerow that provides a good level of screening.

The implementation of the proposed development will necessitate the removal of a few hedging conifers that have been allowed to develop as individual specimens. The removal of these trees will not have an adverse impact on the amenity of the locality or the local landscape character.

To the north of the existing dwelling there is a large and established oak tree that is an intrinsic part of the fabric of the local landscape and that has reasonable amenity value.

In terms of the potential impact of the development on the tree there appears to be a satisfactory separation distance between the tree and the position of the proposed new dwelling. However, to show how the tree will be physically protected for the duration of the construction phase of any development that may be granted planning permission the applicant will need to provide details of the extent of the Root Protection Area (RPA) of the tree and the type of fencing that will be erected to ensure that tree roots are adequately protected.

The Design and Access Statement submitted in support of the application states, on page 19, that additional Arboricultural Impact Information will be provided as required.

It is considered that the applicant may not need to provide a complete Arboricultural Impact Assessment (AIA) but they will need to show the position of the RPA and the type of fencing to be used to protect roots for the duration of the construction phase of any planning permission that may be granted.

This information should be in accordance with BS5837 2012 Trees in relation to design demolition and construction.

Recommendations.

Should planning permission be likely to be granted then details of soft landscaping should be secured by a planning condition. Soft landscaping should aim to soften, screen, and enhance the appearance of the development. If the existing boundary hedgerow is retained, then this may negate the need for any large-scale planting

Tree & Landscape Officer
02.05.24

The additional information provided by the applicant is sufficient to show how the Oak tree to the north of the proposed new dwelling will be physically protected for the duration of the construction phase of any development for which planning permission may be granted.

The plan shows the extent of the Root Protection Area (RPA) of the tree and the type of fencing that will be erected to ensure that tree roots are adequately protected.

This information is in accordance with BS5837 2012 Trees in relation to design demolition and construction recommendation.

ECC Highways Dept

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. No site visit was undertaken in conjunction with this planning application. It is noted that this is a replacement dwelling which is comparable in size with the existing dwelling and will be set further back from the highway compared to the current mobile dwelling, with the established vehicular access remaining unchanged. The proposal retains adequate parking at the front of the proposed dwelling. However, Highway Records has been consulted and it has been established that the existing boundary hedge at the front of the mobile dwelling is encroaching onto the highway and this will need to be cleared prior to first occupation. The replacement dwelling, would not give rise to a significant increase in vehicle movements to and from the site or result in a material change in the character of the traffic in the vicinity of the site, 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. There should be no obstruction above ground level within a 2.4-metres wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided prior to first occupation and retained free of any obstruction at all times.

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

2. Prior to occupation of the dwelling a minimum size 5 (8m x 8m) vehicular turning facility, shall be retained, and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear 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. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

5. Any gates retained at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the footway or where no provision of footway is present, the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety in accordance with policy DM1.

6. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and in accordance with Policy DM1.

7. Prior to any new boundary planting taking place, the applicant must obtain a Highway Boundary Plan from ECC Highway Records to establish the line of the highway boundary and extent of the publicly maintainable highway to the front of the property. Email address: Highway.Status@essexhighways.org

Reason: To avoid any part of the boundary hedge/ fence encroaching onto the public highway and to preserve the integrity of the highway in accordance with Policy DM1.

8. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

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:

i) 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

ii) Highway Land has highway rights which pass over the land, and it is unlawful to construct or enclose highway land as these rights do not extinguish over time. It is not uncommon for land to be under the ownership of a third party, i.e., the sub-soil, but also be public highway.

iii) 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.

iv) 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
27.03.2024

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

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

Contaminated Land: Given the sites surrounding areas historical use for agriculture, we are requesting a Watching Brief be conditioned (on any subsequent approval) and adhered to throughout the demolition

and construction phase. We request that the LPA are contacted in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the LPA responds to the notification. I would also advise that the developer is made aware that the responsibility for the safe development of the site lies with them.

Minimum requirements for dealing with unexpected ground conditions being encountered during construction.

1. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
2. 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.
3. 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.
4. 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.
5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
8. 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.
9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
10. A photographic record will be made of relevant observations.
11. 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: o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or o treatment of material on site to meet compliance targets so it can be re-used; or o removal from site to a suitably licensed landfill or permitted treatment facility.
12. A Verification Report will be produced for the work.

REASON: It is the responsibility of the developer to ensure the safe development of the site and to carry out any appropriate land contamination investigation and remediation works. The condition is 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

3. **Planning History**

92/00836/FUL	(Linshire, Heath Road, St Osyth) Removal of condition 1 of TEN/1185/90 which requires removal of existing outbuildings	Refused	03.09.1992
24/00361/FUL	Planning Application - erection of 1 x dwelling following removal of existing mobile dwelling.	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 Local Plan 2013-33 and Beyond (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 made and the Minerals and Waste Local Plans adopted by Essex County Council.

In relation to housing supply:

The Framework requires Councils to significantly boost the supply of homes to meet the District's housing need. However, the revised Framework, published on 19th December 2023, sets out in Paragraph 76 that (for applications made on or after the date of publication of this version of the Framework) local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:

- their adopted plan is less than five years old; and
- that adopted plan identified at least a five-year supply of specific, deliverable sites at the time that its examination concluded.

The adopted Local Plan meets these criteria.

Notwithstanding this updated provision, the Council will continue to demonstrate an updated supply of specific deliverable sites within its Strategic Housing Land Availability Assessment (SHLAA), which is published annually. The most recent SHLAA was published by the Council in November 2023, and demonstrates a 6.44-year supply of deliverable housing sites against the annual requirement of 550 dwellings per annum set out within the adopted Local Plan, plus a 5% buffer to ensure choice and competition in the market. (The SHLAA can be viewed on the Council's website: <https://www.tendringdc.gov.uk/content/monitoring-and-shlaa>)

On 19th December 2023 the Government published the Housing Delivery Test (HDT) 2022 measurement. Against a requirement for 1,420 homes for 2019-2022, the total number of homes delivered was 2,207. The Council's HDT 2022 measurement was therefore 155%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to decisions relating to new housing development.

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:

National Planning Policy Framework December 2023 ([NPPF](#))

National Planning Practice Guidance ([NPPG](#))

Local:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic 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
- 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
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL10 Renewable Energy Generation and Energy efficiency Measures
- 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)

Tendring Provision of Recreational [Open Space for New Development SPD](#) 2008

[Essex Design Guide](#)

[Technical housing standards](#): nationally described space standard Published 27 March 2015

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

7. Officer Appraisal (including Site Description and Proposal)

Application Site

The application site is a broadly rectangular parcel of land located to the north of Heath Road, St Osyth Heath. To the west of the site is a residential/agricultural plot and beyond a dwelling known as Kimbolds, to the north of the site lies agricultural fields and to the east lies a two-storey dwelling known as Long Acre.

The site is located outside of any defined Settlement Development Boundary.

To the south of the site is Grade II Listed Chisbon House.

Proposal

The proposal is for the Erection of 1 replacement dwelling following removal of existing mobile dwelling on site. The proposed dwelling would be oak framed and sited in a similar position to the existing dwelling on site which has been in place since approximately 1990, and officers in the Councils council tax department confirmed that the site accommodating the existing mobile home has been set up for Council Tax purposes since 1st April 1993 continuously, and is currently banded as a Band A which is the cheapest band for the lowest value properties (also see 'Assessment' section below.

Assessment

The main planning considerations are as follows:

- Principle of Development
- Design & Visual Impacts
- Residential Amenity
- Sustainable Construction & Design
- Highway Safety
- Legal Obligations (Open Space, HRA)
- Renewable Energy Measures
- Trees & Landscaping
- Ecology & Biodiversity
- Other Considerations

Principle of Development

The site is located outside of the Settlement Development Boundary of Clacton on Sea and within the Countryside as established in the Tendring District Local Plan 2013-2033 and beyond. Adopted Policy SPL2 states that outside of Settlement Development Boundaries, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in this plan. The application is for replacement of an existing dwelling with significant supporting evidence provided as part of the application to justify the lawful use of the previous dwelling. Whilst the Council has no record of a Certificate of Lawfulness to justify its retention, significant weight is given to conclusive evidence available to the Council which demonstrate that the site has been in residential use for the last 30 years (in the form of a mobile home being placed on the site and no enforcement action taken). The LPA is also in receipt of correspondence from TDCs Council Tax team confirming that the property has been set up for Council Tax purposes since 1st April 1993 continuously and is banded as a Band A which is the cheapest band for the lowest value properties. Despite the conflict with the above mentioned settlement hierarchy policies, when the other material considerations as set out above are taken into account, it is considered that the proposal to replace the existing mobile home, which has been there for 30 years and has become immune from enforcement action, with a permanent dwelling, is acceptable in principle subject to the detailed considerations below.

Design and Visual Impacts

Paragraph 135 of the National Planning Policy Framework (NPPF) 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 Tendring District Local Plan seeks high standards of urban and architectural

design, which responds positively to local character and context. Policies SPL3 and LP4 of the Local Plan also require that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout that relates well to its site and surroundings, create a unique sense of place.

The proposed dwelling would be a detached modular oak framed building measuring 14.2m in length, 6m in width and 3.9m in height. The proposed materials and scale are considered to be of an acceptable design and appearance to the neighbouring dwellings. Moreover, the proposed replacement dwelling will be a significant improvement from an aesthetics perspective over the existing mobile home. Therefore, a condition is necessary to ensure that the existing mobile home is removed in its entirety from the site once the proposed dwelling is ready for first occupancy. It is acknowledged that the mobile home is in a similar location compared to the proposed dwelling, however the mobile home could be moved to a different location to enable continued occupancy whilst construction works take place on the new dwelling, therefore making the condition necessary under such circumstances.

Policy LP4 states there should be provision for private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of the dwelling. The submitted plans show adequate private amenity spaces have been provided for the new dwelling.

Residential Amenity

Paragraph 135 of the NPPF confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and wellbeing, with a high standard of amenity for existing and future users.

Policy SP7 of the Tendring District Local Plan requires that the amenity of existing and future residents is protected. Policy SPL3 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 Government's nationally described space standards states that a 1-storey 2-bedroom 4-person dwelling should have a minimum GIA of 70sqm with 2qm of storage. The GIA of the proposed dwelling measures approximately 80sqm and therefore complies with this space standard. The garden surrounding the plot is substantial and will be a useable space which is of a high standard of amenity for future and existing users.

There is sufficient distance between the neighbouring dwellings to the east and west of the site to avoid any material harmful effects on residential amenity. The proposed dwelling will replace an existing dwelling on site and is of similar scale therefore the proposed dwelling has no significant harmful effects on the loss of privacy to the adjacent neighbouring dwellings.

Highway Safety

Paragraph 114 of the National Planning Policy Framework 2023 seeks to ensure that safe and suitable access to a development site can be achieved for all users, whilst Paragraph 108 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 have been consulted on the application and have concluded the proposal is acceptable to the highway authority subject to the conditions included below.

It has been noticed that an existing hedge on the site currently overhangs highway land and this

should be trimmed back as per the condition below.

The proposal includes parking for two vehicles which meets the parking standards however a vehicular turning facility should be provided to the east of the existing parking arrangement to enable vehicles to enter and leave the highway in a forward gear this will be secured by condition.

Drainage and Flood Risk

Paragraph 180 of the NPPF 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 191 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 Tendring District 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 applicant is proposing to connect to dispose of waste via the mains sewer, but it is unclear if the proposed dwelling will be connecting to the existing drainage system. Given that the existing dwelling currently uses the same waste disposal, it is considered that the proposed development is capable of ensuring there is adequate provision for drainage and sewerage and this can be secured by condition.

The site falls within Flood Zone 1 (FZ1) according to the Government's Flood Risk Map for flooding at low risk of flooding. The proposal is for a replacement dwelling of similar footprint and therefore will not see an intensification of the site in respect of surface water flooding. As such, it is considered that the proposal is acceptable from a flood risk and drainage perspective and compliant with the relevant policies outlined above.

Financial Contributions - Open Space and RAMS

(i) Open Space

Paragraph 55 of the NPPF 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 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.

The proposal is a 1-for-1 replacement dwelling and therefore there is not considered to be a quantifiable material impact on existing open space facilities or nearby habitats that would justify a financial contribution.

(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 residential development which lies within the Zone of Influence (Zoi) being approximately 5.2km from the Colne Estuary. 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.

The proposal is a 1-for-1 replacement dwelling and therefore there is not considered to be a material impact on European designated sites or nearby habitats that would justify a financial contribution.

Renewable and Energy Conservation Measures

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.

Paragraph 111 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.

The proposal includes for a replacement dwelling which has the potential to incorporate renewable and energy conservation measures. It is therefore considered reasonable and necessary to include a planning condition requiring a scheme, together with a timetable to be submitted for the consideration and installation of these measures, as such a condition is capable of addressing these policy requirements.

Trees and Landscaping

Policy PPL3 of the Tendring Local Plan states that the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance include to native hedgerows, trees and woodlands.

The Council's Tree and Landscape Officer has been consulted as part of the application with detailed comments provided above. In summary, an RPA block plan and details of BS fencing have been provided to ensure that the Oak Tree to the north of the site will be protected throughout the construction phase. The remaining garden area provides a positive contribution to the rural landscape and the proposals will not adversely affect its character.

Ecology and Biodiversity

This report addresses the distinct legal requirements, ensuring a comprehensive analysis of the ecology and biodiversity impacts of the proposal in line with regulatory standards.

General duty on all authorities

The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for

decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.

Biodiversity net gain

Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. The minimum requirement is for a 10% net gain in biodiversity value achieved on a range of development proposals. The application was submitted prior to the introduction of this requirement on 2nd April 2024 and is not therefore applicable for Biodiversity Net Gain.

Protected Species

In accordance with Natural England's standing advice the application site and surrounding habitat have been assessed for potential impacts on protected species.

It is considered that the proposal is unlikely to adversely impact upon protected species or habitats by virtue of the scheme being for a replacement dwelling

In compliance with relevant wildlife legislation and planning policies, the development will adhere to best practices to protect and enhance the habitat for these protected species. Additionally, ongoing monitoring and adaptive management strategies will be conditioned and implemented as necessary including a detailed Protected Species Mitigation and Management Plan to ensure the continued protection of these species throughout the development process.

Contamination

Given the sites surrounding areas historical use for agriculture, the Council's Environmental Protection department are requesting a Watching Brief be conditioned on any subsequent approval and adhered to throughout the demolition and construction phase.

Other Considerations

St Osyth Parish Council have been consulted on the application and have no objections.

No other representations have been received.

Conclusion

In the absence of any material harm and given the clear evidence available to the LPA which demonstrate that the existing mobile home has been on site, and lived in, for a period of close to 30 years, the proposals are considered to accord with both National and Local Planning Policy and will provide a sustainable form of development which meets these policy aims.

8. Recommendation

Approval - Full

9. Conditions / Reasons for Refusal

1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The development hereby permitted shall be begun not later 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 Section 51 of the Planning and Compulsory Purchase Act 2004.

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the permission becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk Enforcement Action proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

2 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 No. 91753/01

Drawing No. 91753/03

Drawing No. 91753/05

RPA details – Received 01.05.24

BS Fencing details – Received 01.05.04

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.

3 ONGOING REQUIREMENT IMPOSED - NOISE RESTRICTIONS & WORKING TIME LIMITS

CONDITION: Throughout the construction phase of the development hereby approved, no machinery (all fixed and hand machinery) on site or as may be brought on site, as defined by the red line plan with regard to this permission, shall be operated on the site (including inside any buildings) before 08:00 and after 18:00 Monday - Fridays, with works or before 08:00 and after 13:00 on Saturdays, nor at any time on Sundays, Bank Holidays or Public Holidays.

REASON: In the interest of the amenity of neighbouring residents having regard to the background noise levels in the area.

NOTE/S FOR CONDITION:

1) This condition shall engage and restricts the operation of the development from the first commencement of the use. This condition is imposed to ensure the development avoid unreasonable impact on the residential amenity of neighbouring dwellings, especially given the location of the development. Without the imposing of this condition, the development would be refused due to the risk of harm and this condition is considered necessary, enforceable and reasonable in all other respects.

2) This condition does not include vehicles (for example HGVs) capable of using the public highway in the definition of machinery as these are not fixed to the site and/or building/s nor regarded as hand machinery.

4 VISIBILITY SPLAYS

CONDITION: There should be no obstruction above ground level within a 2.4-metres wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided prior to first occupation of the dwelling hereby approved, and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety.

5 VEHICULAR TURNING FACILITY

CONDITION: Prior to occupation of the hereby approved dwelling a minimum size 5 (8m x 8m) vehicular turning facility, shall be retained, and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

6 GATES

CONDITION: Any gates retained at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the footway or where no provision of footway is present, the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent footway/cycleway/carriageway in the interest of highway safety.

7 BOUNDARY PLANTING

CONDITION: Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

Reason: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety.

8 SURFACE TREATMENT

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

9 ACTION REQUIRED: PROVISION OF CYCLE PARKING

CONDITION: Prior to first occupation, details for the provision of secure, covered cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved facility shall be installed prior to occupation and retained thereafter at all times.

Reason: To ensure appropriate bicycle parking is provided in the interests of encouraging sustainable transport.

10 SUSTAINABLE EFFICIENCY MEASURES

CONDITION: No development shall commence above slab level until a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include as a minimum:-

- Agreement of a scheme for water conservation including greywater recycling and rainwater capture/re-use for replacement dwelling.
- Agreement of a scheme to achieve as far as possible a water consumption rate of not more than 110 litres, per person, per day for replacement dwelling.
- Agreement of heating of the hereby approved dwelling/building
- Agreement of scheme for waste reduction
- Provision of a fibre optic broadband connection to the best possible speed installed on an open access basis and directly accessed from the nearest exchange, incorporating the use of resistant tubing. (If the applicant is unable to achieve this standard of connection, and can evidence through consultation that this would not be possible, practical or economically viable an alternative superfast (i.e. will provide speeds greater than 30mbps) wireless service will be considered.)

The scheme shall be fully implemented prior to the first occupancy of the development 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 reduced need, better use or savings in the use of water, energy and resources; reduced harm to the environment; and result in wider public benefit in accordance with the NPPF.

NOTES FOR CONDITION:

Slab level normally refers to the concrete slab supported on foundations or directly on the subsoil and is used to construct the ground floor of the development. In any other case, please assume slab level to be the point before any walls and/or development can be visualised above ground level or seek confirmation from the Local Planning Authority for your development.

Broadband provision is included to ensure the development is able to be equipped with high speed broadband to enable opportunities for web-based communication and homeworking reducing the need for unsustainable travel.

A water consumption rate of not more than 110 litres, per person, per day adopted as Planning Policy and as imposed by this condition will directly change the building regulations water consumption rate to match as a result of this policy. The introduction of effective utilities, rainwater capture for watering plants, aerators to taps and other water saving options can be considered.

11 ACTION REQUIRED: REFUSE BINS AND COLLECTION AREAS

CONDITION: Prior to occupation of the dwelling hereby approved the area to be provided for storage of refuse/recycling bins as shown on the approved drawing number P07 Rev A shall be provided and then retained in perpetuity.

REASON: In the interest of highway safety to ensure that refuse recycling bins do not cause any obstruction or danger on the highway.

NOTE/S FOR CONDITION:

It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the ECC Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by Essex County Council or its agents at the applicant's expense.

12 APPROVAL REQUIRED: LANDSCAPING SCHEME

CONDITION: No development above slab level shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard, soft and boundary treatment landscaping works for the site, which shall include any proposed changes in ground levels.

REASON: In the interests of visual amenity and the character and appearance of the area.

NOTE/S FOR CONDITION:

Slab level is normally refers to the concrete slab supported on foundations or directly on the subsoil and is used to construct the ground floor of the development. In any other case, please assume slab level to be the point before any walls and/or development can be visually above ground level or seek confirmation from the Local Planning Authority for your development.

Should the landscape works include any new hedgerow, please consider the following planting for a native hedge. Native hedge: 50% hawthorn, 25% blackthorn (but beware - this can spread into adjacent fields), 15% field maple, 2% holly, 2% wild privet, 2% guelder rose, 2% dog rose, 2% buckthorn.

13 COMPLIANCE WITH DETAILS AND TIMESCALE REQUIRED - LANDSCAPING SCHEME

CONDITION: All changes in ground levels, soft/hard landscaping shown on the approved landscaping details shall be carried out in full during the first planting and seeding season (October - March inclusive) following the commencement of the development, or in such other phased arrangement as may be approved, in writing, by the Local Planning Authority up to the first use/first occupation of the development. Any trees, hedges, shrubs or turf identified within the approved landscaping details (both proposed planting and existing) which die, are

removed, seriously damaged or seriously diseased, within a period of 10 years of being planted, or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and same species unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that the approved landscaping scheme has sufficient time to establish, in the interests of visual amenity and the character and appearance of the area.

14 COMPLIANCE REQUIRED: LANDSCAPE PROTECTION

CONDITION: Prior to commencement of development the existing Oak tree on the site, shall be protected by the erection of temporary protective fences as detailed in BS Fencing details – Received 01.05.04. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the tree to be protected. Any trees dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with a tree or trees of appropriate size and species during the first planting season, or in accordance with such other arrangement as may be approved, in writing, with the Local Planning Authority up to first use or first occupation of the development, following the death of, or severe damage to the tree/s.

REASON: For the avoidance of damage to protected tree/s included within the landscaping scheme in the interests of visual amenity and the character and appearance of the area. This condition is required to be carried out prior to the commencement of any other development to ensure trees are protected early to ensure avoidance of damage or lost due to the development and/or its construction. If agreement was sought at any later stage there is an unacceptable risk of lost and damage to trees.

15 MOBILE HOME REMOVED FROM SITE PRIOR TO FIRST OCCUPATION

CONDITION: Prior to occupation of the hereby approved dwelling and for the avoidance of doubt the existing mobile dwelling on site shall be removed in its entirety to ensure only one permanent dwelling on site.

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

10. 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

i) 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

ii) Highway Land has highway rights which pass over the land, and it is unlawful to construct or enclose highway land as these rights do not extinguish over time. It is not uncommon for land to be under the ownership of a third party, i.e., the sub-soil, but also be public highway.

iii) Prior to any new boundary planting taking place, the applicant must obtain a Highway Boundary Plan from ECC Highway Records to establish the line of the highway boundary and extent of the publicly maintainable highway to the front of the property. Email address: Highway.Status@essexhighways.org. This is to avoid any part of the boundary hedge/ fence encroaching onto the public highway and to preserve the integrity of the highway in accordance with Policy DM1.

iv) 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.

v) 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.

CONTAMINATED LAND: WATCHING BRIEF

A Watching Brief shall be adhered to throughout the demolition and construction phase. The Local Planning Authority should be notified in the event of unexpected ground conditions being encountered during construction and that the below minimum precautions are undertaken until such time as the Local Planning Authority responds to the notification. The responsibility for the safe development of the site lies with the development

Minimum requirements for dealing with unexpected ground conditions being encountered during construction.

1. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency
2. 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
3. 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
4. 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
5. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations
6. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected
7. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.
8. 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

9. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report
10. A photographic record will be made of relevant observations
11. 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: o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or o treatment of material on site to meet compliance targets so it can be re-used; or o removal from site to a suitably licensed landfill or permitted treatment facility
12. A Verification Report will be produced for the work

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.

It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

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
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 and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
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
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12. Notification of Decision

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