

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	CC	19.03.2025
EIA Development - Notify Planning Casework Unit of Decision	N/A	
Team Leader authorisation / sign off:	AN	20/03/25
Assistant Planner final checks and despatch:	ER	20/3/2025

Application: 25/00098/FULHH **Town / Parish:** Clacton Non Parished

Applicant: Mrs Wooley

Address: 106A Holland Road Clacton On Sea Essex

Development: Householder Planning Application for fence to remain and be painted green.

1. Town / Parish Council

Clacton non-parished No comments / consultation required

2. Consultation Responses

None required

3. Planning History

00/00368/FUL	Demolition of Health Clinic building and erection of 14 x 3-bed detached bungalows	Approved	08.06.2000
00/01338/TPO	Crown lift T.5 and T.6 Pine to approximately 20' and clear deadwood (TPO99/22)	Approved	05.09.2000
01/00254/FUL	Dwarf wall upon front garden of Plot 3	Approved	30.03.2001
02/01337/FUL	Conservatory.	Approved	12.09.2002
91/00747/FUL	Amendment to approved access road layout (variation of permission TEN/1600/90).	Approved	14.08.1991
02/01735/TPO	Fell dead Pine tree	Approved	14.10.2002
02/02202/FUL	Chain link fence with gate	Refused	09.01.2003
06/00017/FUL	Replacing original railing on existing wall, plus adding concrete balls to pillars	Approved	30.03.2006
24/00755/ROC	Application under Section 73 of the Town and Country Planning Act for Removal of	Refused	17.07.2024

Condition 6 (Permanent Means of Enclosure) of application 00/00368/FUL to allow for retention of erected fence.

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.

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>

At the time of writing, there are no draft or adopted neighbourhood plans relevant to this site.

6. Relevant Policies / Government Guidance

National:

National Planning Policy Framework 2024 (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

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP3 Housing Density and Standards

LP4 Housing Layout

PPL4 Biodiversity and Geodiversity

PPL12 The Gardens Area of Special Character, Clacton-On-Sea

Supplementary Planning Documents

Essex Design Guide

7. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site is 106A Holland Road located to the east of Holland Road within a cul-de sac of 4 dwellings and a private access road. It is located within the settlement development boundary of Clacton-on-Sea and to the north of the Gardens area of Special Character.

The area surrounding the site consists of three additional bungalows which share the private access. The bungalows are set back from the road and there is an attractive landscaped area to the front (of the bungalows) facing Holland Road. To the east of the site lies dwellings located off Reckitts Close, to the south on the opposite side of Reckitt's Close lies 100-106 Holland Road. has a variety of different types of properties, all in close proximity to each other.

As mentioned, the front gardens of both the application site and the neighbouring dwellings (108, 110A & 110) are open plan and heavily landscaped which contributes to the verdant character of the area.

Planning History and Background

Planning permission was granted in March 2000 (reference 00/00368/FUL) for the Demolition of Health Clinic building and erection of 14 x 3-bed detached bungalows. The application site is highlighted as Plot 3 on the approved plans and indicates an open access driveway with a turning area leading off Holland Road to the west. Condition 6 on the decision notice states the following:

Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995, no wall, fence, gates or other permanent means of enclosure shall be erected within the curtilage of any dwelling house forward of any wall of that dwelling house which fronts onto the highway of private drive without express planning permission.

Reason: To maintain the frontage as an open plan area in the interest of local amenity.

24/00755/ROC was submitted in 2024 under Section 73 of the Town and Country Planning Act for Removal of Condition 6 (Permanent Means of Enclosure) of application 00/00368/FUL to allow for retention of erected fence. The Local Planning Authority refused this planning application on the grounds that the fencing installed is out of character with the landscaped pattern and planned layout of development in the immediate surrounding area and would harm both the prevailing open plan character, the local landscape and neighbouring residential amenity, the latter in terms of visual harm and enjoyment of a landscaped area clearly designed to be open for the visual enjoyment of residential occupiers along this section of Holland Road. Therefore the removal of condition 6 is not justified.

This planning application seeks full planning permission for the retention of the existing fence and for the fence to be painted green.

Assessment

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. 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 boundary treatments should be assessed through Policy SPL3 Part A (Design).

Clause e states the following:

boundary treatments and hard and soft landscaping are designed as an integral part of the development reflecting the function and character of the development and its surroundings. The

Council will encourage the use of locally distinctive materials and/or locally occurring and characteristic hedge species.

The subject of this application is a 1.8 metre high close boarded fence that has already been constructed along the northern boundary of No. 106a Holland Road, dividing the open plan western frontage of the three dwellings fronting Holland Road. When viewed in the context of the remaining residential curtilage of the three dwellings the fence appears wholly incongruous and out of character. The frontage of the dwellings facing Holland Road has purposely been designed to be open plan and remain as such, the retention of the fence breaks up this purposely designed open landscaped area and results in clear and overriding harm contrary to the aims of the NPPF and Policies SP7 and SPI3.

The harmful effects the retention of this fence creates on the visual amenities of the area are far too significant to be amended by painting the fence green. This is not considered to be enough of an alteration to outweigh these negative effects as the purposely designed open frontages will continue to remain subdivided and therefore out of character with the area.

Impact on Neighbouring Amenities

The NPPF, Paragraph 135, states that planning should always seek to secure a high standard of amenity for all existing and future occupants of land and buildings. In addition, Policy SP7 of the adopted local plan states that all development should protect the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022).

The fence creates a hard landscaped border to the application site which is visible from the front properties of 108, 110 and 110A Holland Road. Due to the significant harmful impact this causes, it would reduce the standard of amenity of a well-planned group of dwellings by removing the existing open feel to the estate, contrary to the above mentioned planning policies.

Highway Safety

The access way is a private cul-de-sac, the highway authority have not been consulted on this application given the access remains unaltered and the turning space is unaffected. The Local Planning Authority deem the application acceptable in terms of highway safety.

Other Considerations

Four letters of objection have been received, these letters can be viewed in full through the Council's Public access. The main reasons for objection were as follows;

- The submission of a further application following the previous refusal and lack of notification
- Harmful impacts to residential amenity / quality of life / harmful impacts on outlook
- Harmful impacts to wildlife and planting

Officer response;

- The Local Planning Authority do not have the right to refuse the submission of a planning application, given all the validation requirements are met.
- The local planning authority have a duty to consult every neighbouring property that immediately adjoins the red line plan (site plan) as submitted with an application or post a site notice. In this instance the neighbouring dwellings immediately abutting the red line have been consulted. The planning officer has also posted a site notice to make residents aware of the application and invite comments on the application therefore exceeding the minimum consultation requirements.
- The impacts of the fence on the visual and residential amenities have been assessed in the above report and has been considered to have significant harmful impacts.

- The fence has been erected without planning permission and following refusal/any unsuccessful appeal should be removed. Ecology/biodiversity is addressed within the report below.

BNG & ECOLOGY

Habitats, Protected Species and Biodiversity Enhancement

Ecology and Biodiversity

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.

This development is subject to the general duty outlined above. An informative would be imposed on any planning permission strongly encouraging the applicant to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Therefore the development on balance, with consideration of the impact of the development and baseline situation on site, is considered likely to conserve and enhance biodiversity interests.

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. This excludes applications for householders this proposal is not therefore applicable for Biodiversity Net Gain.

Protected Species

In accordance with Natural England’s standing advice the proposed development site and surrounding habitat have been assessed for potential impacts on protected species. A letter of objection has also been received from a neighbouring resident highlighting concerns that the fence is having an adverse impact on local wildlife. The Local Planning Authority note there is space in the fencing where wildlife can gain access, however, as the LPA are opposed to the construction of the fence due to its harmful impacts on visual and residential amenity the proposal is being recommended for refusal and therefore the fence will need to be demolished, returning the front of the site to an open nature and restoring any natural wildlife habitats/pathways.

BNG and Ecology Conclusion

In accordance with the overarching duty outlined above, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

Conclusion

The retention of the existing fence and painting it green is considered to have significant harmful effects on the visual amenities of the area. The fence subdivides the open plan frontage of the dwelling facing Holland Road, it appears incongruous and wholly out of character when viewed in the context of the remaining residential curtilage of the three dwellings. Painting the fence green is not considered to make a significant enough impact as to override the existing harm. Furthermore, the fence is visible from the neighbouring properties of 108, 110 and 110A Holland Road and is considered to reduce the standard of amenity through its harmful impact on the outlook of these dwellings and by removing the enjoyment of the existing open feel and heavily landscaped site

frontage. The retention of the fence is therefore contrary to the above mentioned national and local planning policies, resulting in significant harmful impacts to visual and residential amenities. This significant harmful impact is justification for a refusal of this planning application.

8. Recommendation

Refusal – Full

9. Reasons for Refusal

1. Paragraph 135 of the National Planning Policy 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. Local Plan Policy SP7 states development should reflect place shaping principles and where applicable respond positively to local character and context to preserve and enhance the quality of existing places and their environs. In addition, Local Plan policy SPL3 Part A, Clause e states that boundary treatments and hard and soft landscaping should be designed as an integral part of the development reflecting the function and character of the development and its surroundings. The Council will encourage the use of locally distinctive materials and/or locally occurring and characteristic hedge species. Further Local Plan policy SPL3 seeks new development that does not have a materially damaging impact on the amenities of occupiers of nearby properties.

The fencing installed is out of character with the landscaped pattern and planned layout of development in the immediate surrounding area and would harm both the prevailing open plan character and neighbouring residential amenity, the latter in terms of visual harm and enjoyment of a landscaped area clearly designed to be open for the visual enjoyment of residential occupiers along this section of Holland Road. The proposal to paint the fence green does not overcome these objections. Therefore, the proposal is considered to be contrary to the aims of the Framework and the above-mentioned Local Plan Policies.

10. 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. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

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. 1136_A_SC_01 - Site Plan

Drawing No. 1136_A_SC_02 - Block Plan

Drawing No. 1136_A_SC_03 - Site Layout Plan and Southwest Elevation

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

12. Notification of Decision

Are there any letters to be sent to applicant / agent with the decision? If so please specify:		NO
Are there any third parties to be informed of the decision? If so, please specify:		NO
Has there been a declaration of interest made on this application?		NO