

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	CC	01.05.2025
EIA Development - Notify Planning Casework Unit of Decision:	N/A	
Pre-commencement condition agreement:	N/A	
Team Leader authorisation / sign off:	AN	01.05.25
Assistant Planner final checks and despatch:	ER	02/05/2025

**Application:** 25/00306/FUL **Town / Parish:** Clacton Non Parished

**Applicant:** Miss Hobday and Mr Lobb

**Address:** Land rear of 210-212 St Osyth Road Clacton On Sea Essex

**Development:** Planning Application - Erection of one self-build dwelling.

### **1. Town / Parish Council**

Clacton non-parished      No comments / consultation required

### **2. Consultation Responses**

ECC Highways Dept  
18.03.2025

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. It is noted that this application is similar to previous planning applications: 16/01227/FUL, 23/00744/FUL and 23/01719/FUL that was previously acceptable to the Highway Authority, while the proposed access being identical to the previous applications. It is noted that like the previous applications it is proposed to provide one off-street parking space. In conjunction with the site being in a highly sustainable location with key amenities including, a Tesco Express located within St Osyth Road and local bus stop facilities nearby. As a result, it is considered that one car parking space is sufficient for a two-bedroom dwelling in this location, therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. Prior to occupation of the dwelling a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction above 600mm at all times. These visibility splays must not form part of the vehicular surface of the access.

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

2. No unbound material shall be used in the surface treatment of the vehicular access throughout.

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

3. Prior to occupation of the dwelling the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be more than 3.6 metres (equivalent to 4 drop kerbs), shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.

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

4. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay and must not exceed a height above 600mm at all times.

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.

5. The proposed dwelling shall not be occupied until such time as the vehicle parking space indicated on the approved plan, has been hard surfaced, and sealed. The vehicle parking area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the dwelling.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.

6. The powered two-wheeler/cycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at all times.

Reason: To ensure appropriate powered two-wheeler and bicycle parking is provided in accordance with Policy DM8.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance and National Planning Policy Framework.

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](mailto:development.management@essexhighways.org)

ii) 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.

iii) 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.

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

Environmental  
Protection  
14.03.2025

The Environmental Protection team have reviewed the application and recommend the following comments:

Environmental Protection are satisfied with the submitted Construction Method Statement. This should be conditioned and adhered to.

A watching brief is recommended during any groundworks due to known historic contaminated land nearby the development site. If any unforeseen contamination is encountered during the development works this should be reported immediately so that appropriate action can be taken. Any ground contamination shall be recorded, remediated and a closure report with photographic evidence sent to Environmental Protection.

3. **Planning History**

05/01997/FUL	One bedroom starter home	Refused	22.12.2005
07/01909/FUL	Proposed dropped kerb and cross over together with hardstanding.	Refused	09.01.2008
12/00927/FUL	Construction of a new detached one bedroom dwelling.	Refused	30.01.2013

16/01227/FUL	Proposed detached dwelling and new vehicular access.	Refused	27.09.2016
23/00744/FUL	Proposed 1 x two-bedroom detached dwelling with vehicular access from Coronation Road.	Refused	14.11.2023
23/01719/FUL	Erection of 1 No. detached dwelling with vehicular access from Coronation Road.	Refused	31.01.2024
24/00037/REFU SE	Erection of 1 No. detached dwelling with vehicular access from Coronation Road	Appeal Dismissed	06.12.2024

#### **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. Paragraph 78 states that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of 5% to ensure choice and competition in the market for land, unless the Housing Delivery Test (HDT) demonstrates significant under delivery of housing over the previous 3 years - in which case a higher buffer is required.

On 12th December 2024 the Government published the Housing Delivery Test: 2023 measurement. Against a requirement for 1,466 homes for 2020-2023, the total number of homes delivered was 2,343. The Council's HDT 2023 measurement was therefore 160%, and a buffer of 5% is to be used when calculating the Council's five year land supply position.

The Council demonstrates its supply of specific deliverable sites within the Strategic Housing Land Availability Assessment (SHLAA), which is published annually. The most recent SHLAA was published by the Council in July 2024, and demonstrates a 6.26-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. The SHLAA can be viewed on the Council's website: <https://www.tendringdc.gov.uk/content/monitoring-and-shlaa>

As a result, the 'titled 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>

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 2025 (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)

SP 1 Presumption in Favour of Sustainable Development

SP 2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP 3 Spatial Strategy for North Essex

SP 4 Meeting Housing Needs

SP 7 Place Shaping Principles

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP1 Housing Supply

LP3 Housing Density and Standards

LP4 Housing Layout

LP7 Self-Build and Custom-Built Homes

PPL1 Development and Flood Risk

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation and Energy efficiency Measures

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

### Supplementary Planning Documents

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

### Essex Design Guide

Technical housing standards: nationally described space standard Published 27 March 2015

### Local Planning Guidance

Essex Parking Guidance Part 1: Parking Standards Design and Good Practice 2024

## **7. Officer Appraisal (including Site Description and Proposal)**

### **Application Site**

The application site serves a former garden, located towards the east of Coronation Road, within the settlement development boundary of Clacton on Sea, as defined in the Tendring District Local Plan. The plot is located on land situated to the rear of No's 210-212 St Osyth Road. The character of the locality is comprised from a mixture of detached and semi-detached dwellings of a variety of styles and materials.

### **Proposed Development**

This application seeks full planning permission for the erection of one self-build dwelling.

### **Site History**

Full planning permission has been sought and refused for the erection of a dwelling in this location in 2005, 2012, 2016, and 2023.

In 2023 an application seeking full planning permission for the erection of 1 no. detached dwelling with vehicular access from Coronation Road was submitted to Tendring District Council (reference 23/01719/FUL) this application was refused due to its harmful impact to the amenities and quality of life for the adjacent neighbouring residents and unsatisfactory living conditions to the future occupiers due to lack of outlook on the first floor main bedroom. This refusal was subsequently appealed (reference 24/00037/REFUSE) however the appeal was dismissed due to the harmful impact on future occupiers living conditions as a result of the obscure glazed first floor windows. This previous refusal and Appeal decision form material considerations, holding significant weight, in the assessment of this current planning application.

### **Self-build and Custom Housebuilding**

Policy LP7 of the Local Plan is not relevant in this case as the proposal lies within the Settlement Development Boundary and Policy LP7 sets out the circumstances under which self build homes could be built outside of settlement development boundaries. As the site lies within the settlement development boundary the principle for additional residential development is accepted by TDLP policies SP3, SPL1 and SPL2 subject to the detailed considerations below.

The Self-build and Custom Housebuilding Act 2015 (the SCHA 2015) requires relevant authorities to keep a register of individuals (or associations of individuals) seeking to acquire serviced plots of land in the authority's area for their own self-build and custom housebuilding.

The Levelling Up and Regeneration Act 2023 (the LURA 2023) amended the SCHA 2015, tightening the requirements to grant permission in relation to the register.

Section 2A of the SCHA 2015 (as amended) places a duty on the authority to give development permission for the carrying out of self-build and custom housebuilding on enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area in respect of each base period, as evidenced by the number of entries added to the register during that period.

Section 5 of the SCHA 2015 and Regulation 3 of The Self-build and Custom Housebuilding

Regulations 2016 define a “serviced plot of land” as a plot of land that has access to a public highway and has connections for electricity, water, and wastewater, or can be provided with those things within the period before any development permission granted in relation to that land expires.

Regulation 2 of The Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016 states that the time allowed for an authority to comply with the duty is the period of 3 years beginning immediately after the end of that base period. Section 2A of the SCHA 2015 (as amended) stipulates that any demand that arose in an earlier base period and which has not been met within the time allowed for complying forms part of the current demand – i.e. unmet demand from previous years accumulates.

The application is accompanied by a self-build declaration and needs statement in support of the development proposal to provide adequate justification for the development as a self-build project. The dwelling is proposed for the applicant.

Considering the amendments introduced by the LURA 2023, the Council can no longer demonstrate that it is meeting its duties under the SCHA 2015. A condition would be imposed on any approval securing the development as self build. The benefits of delivering one self-build dwelling can be given some weight in the overall planning balance.

#### Assessment Design and Appearance

Paragraph 131 of the NPPF states: The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 135 adds planning decisions should ensure that developments are visually attractive as a result of good architecture, and establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

Local Plan Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to ensure all new development makes a positive contribution to the quality of the local environment and protect or enhance local character. The following criteria must be met: new alterations are well designed and maintain or enhance local character and distinctiveness; and the development relates well to its site and surroundings particularly in relation to its siting, height, scale, design and materials.

The proposal is for a detached two storey dwelling. The dwelling will be situated approximately 9 metres back from the highway and measures 6.4 metres wide by 9 metres deep with an overall height of 7.5 metres. The dwelling will be finished in facing brickwork, with hipped roof design finished in concrete roof tiles and white UPVC windows. The character of the local area is comprised from a mixture of semi-detached and detached dwellings.

The changes in design to that of previously refused application 23/01719/FUL are considered to be minimal. These include the following;

Previous application (23/01719/FUL)	Current Application
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Both first floor windows on the rear elevation to be obscure glazed and opening fan light will be 1.7m above finished first floor level.	Both first floor lower section of windows on the rear elevation to be obscure glazed and bottom of clear glazed opening fan light will be 1.5m above first floor level.
No proposed rooflights	Roof light proposed on the southern side elevation of the roof slope (facing St Osyth Road)
Single window serving the main bedroom on northern side elevation (facing No. 2 Coronation Road) measuring 0.69 metres wide by 1 metre in height	Larger proposed window on northern side elevation (facing No. 2 Coronation Road) serving the main bedroom, measuring 1.2 metres wide by 1 metre in height.

As stated above, appeal reference 24/00037/REFUSE serves as a material consideration in this application, holding considerable weight. The appeal decision notes the main issues with the application are the living conditions for future occupiers and the effect of the proposal of the living conditions of the neighbouring dwellings. The appeal decision raised no concern with the design of the proposed dwelling, nor its impacts on the visual amenities of the area. The minor external changes to the appeal scheme detailed above are not considered to result in material harm to visual amenity and there is no object to the appearance of the proposal.

#### Impact on Residential 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).

Appeal decision 24/00037/REFUSE states that the main issues for consideration of previously refused application 23/01719/FUL are as follows;

“ 2. The main issues are:

- Whether the proposed development would provide satisfactory living conditions for the future occupiers of the proposed dwelling with regard to outlook; and
- The effect of the proposed development on the living conditions of the occupiers of the neighbouring dwellings with regard to outlook and privacy.”

As this appeal decision serves as a material planning consideration holding significant weight in the assessment of this application specific consideration must be given to the above-mentioned main issues and how the submitted proposal has counteracted any previous concerns.

#### Amenity of Future Occupants

Appeal decision 24/00037/REFUSE reads as follows;

“4. The submitted plans show that one of the bedrooms within the proposed dwelling would be served by three first floor windows, two east facing and one north facing. Due to the proximity to neighbouring dwellings and gardens, all three of these windows would be obscure glazed with an opening fan light. Whilst this would allow sufficient light into the bedroom, the outlook from these bedroom windows would be entirely impeded by the



obscure glazing and would result in a harmful sense of enclosure to the future occupiers of the dwelling when using this room.

5. Although the future occupiers would benefit from two habitable rooms on the ground floor with unobscured windows and an unrestricted outlook, this would not negate the requirement for an adequate outlook to be provided in all habitable rooms within the dwelling.

6. Therefore, for the reasons above, the proposed development would not provide satisfactory living conditions for the future occupiers of the proposed dwelling and would conflict with the relevant sections of Policy SP7 of the North Essex Authorities' Shared Strategic Section 1 Plan (the Section 1 Local Plan) 2021 and Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (the Section 2 Local Plan) 2022. The relevant sections of these policies collectively seek to ensure that all new development protects the amenity of future residents with buildings and structures designed and orientated to ensure adequate outlook.

7. The proposal would also be contrary to Paragraph 135 of the National Planning Policy Framework which states that planning decisions should ensure that development creates places with a high standard of amenity for future users."

The current proposal has altered the application to increase the size of the north facing window, include the installation of a roof light on the southern side elevation and alter the opening fan lights on the rear facing windows to be 1.5 metres above ground level, rather than 1.7 metres as previously, and clear glazed. However, the proposed changes submitted within this current application are not considered significant enough to negate the feeling of enclosure for future occupiers in the rear bedroom due to the following reasons;

- The feeling of enclosure remains due to the need for obscure glazed windows.  
It is necessary for the proposed rear facing windows to be obscure glazed due to their close proximity, and therefore negative impacts on the loss of privacy and feeling of being overlooked, to the garden of No. 208 St Osyth Road. Therefore a condition would need to be imposed to ensure these windows would remain obscure glazed below 1.7m above floor level (in accordance with the height specified in the General Permitted Development Order as a generally accepted height from above which overlooking would not be materially harmful) on any subsequent planning approval, resulting in poor outlook and a feeling of enclosure for any future occupants when using the first floor main bedroom.

No. 2 Coronation Road has two windows at first floor level and one at second floor level on the facing flank close to the proposed north side elevation. Whilst the north facing side window has been increased in size, a condition would also need to be implemented on any subsequent planning approval to state this window must be obscure glazed and non opening below 1.7m above floor level and remain as such due to its close proximity to No. 2 Coronation Road and the need to prevent loss of privacy between the proposed and neighbouring dwellings. Therefore further adding to the poor outlook and feeling of enclosure to the future occupants of this dwelling when using the main bedroom.

- The proposed rooflight does not significantly negate the feeling of enclosure or poor outlook  
Due to its positioning within the roofslope the proposed rooflight is considered to primarily provide light to the bedroom, rather than any significant views to adequately negate the feeling of enclosure to users of this room.

- Opening fan lights 1.5 metres above ground level on rear facing windows  
The opening fan light 1.5 metre above ground level will allow some views for future occupiers of the dwelling when using this room. However, these views will result in harmful effects to the amenities of the neighbouring dwelling of no. 208 St Osyth Road in terms of loss of privacy (discussed further below). Any views obtained from the opening fan lights are also not considered to be significant enough to negate the severe negative consequences of having all main windows serving the rear (master) bedroom predominantly obscure glazed.

Therefore, for the reasons set out above, the amendments submitted with this current application are not considered significant enough to adequately negate the feeling of enclosure and therefore do not result in satisfactory living conditions for future occupiers of the proposed dwelling and therefore conflict with the above mentioned national and local planning policies.

### Amenity of Neighbouring Residents

The proposed dwelling would be located within close proximity to the shared boundary with no. 208 St Osyth Road, with a separation distance of approximately 3 metres. However, Appeal decision 24/00037/REFUSE states the following regarding No. 208 St Osyth Road;

“this neighbouring property benefits from a long rear garden and, as such, the proposed dwelling would be located some distance from the neighbouring dwelling at No. 208” thereby having an acceptable impact on outlook from all properties on St Osyth Road.

“the proposed dwelling would have two first floor windows on the rear elevation which would face the garden of No. 208. However, these would be obscure glazed and, whilst in close proximity to the shared boundary, would not result in a harmful loss of privacy to the occupiers of this neighbouring dwelling when using their garden”

This application differs from the appeal decision in the fact that the opening fan lights on the rear facing windows serving the first floor main bedroom are now opening from 1.5 metres above floor level, rather than 1.7m as previously proposed therefore resulting in a more harmful effect on the loss of privacy to the neighbouring residents of No. 208 when using their garden. It is noted that the General Permitted Development Order adopts a height of 1.7m when referring to new side facing windows as a generally accepted height from above which overlooking would not be materially harmful.

However, it is considered that a condition could be imposed to, notwithstanding the submitted plans, amend the rear first floor windows so the clear opening fan lights are set 1.7m above the finished floor level of that room, with obscure glazing below, to preserve the amenity of the occupiers of No. 208.

No. 2 Coronation Road has two windows at first floor level and one at second floor level on the facing flank close to the proposed north side elevation. The north facing side window has been increased in size under the current application, therefore resulting in a more significant impact on the loss of privacy to No. 2 Coronation Road. The proposal of this enlarged window will result in a significant loss of privacy and feeling of being overlooked that is significant enough to warrant a condition on any subsequent planning approval ensuring this window is obscure glazed and non opening below 1.7m above floor level (further adding to the feeling of enclosure and poor outlook as discussed above).

Due to its position within the roof slope the proposed roof light will provide the dwelling with views of the sky and therefore has no significant harmful impact upon neighbouring privacy.

The proposed dwelling is located an adequate enough distance from neighbouring dwellings as to have no material impact on the loss of light.

### Highway Safety

Paragraph 115 of the National Planning Policy Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users, whilst Paragraph 109 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 County Council Highways have been consulted on this application, their comments can be viewed in full above and have been summarised here. The highway authority have noted the proposed vehicular access is identical to the previously submitted applications, with one off-street parking space provided to the front of the dwelling. the site is in a highly sustainable location with key amenities including a Tesco Express located on St Osyth Road and local bus stop facilities nearby. As a result it is considered one parking space is sufficient in this location. Therefore the highway authority raise no objection to the application and have suggested conditions and mitigations in the event of an approval.

### Drainage

Paragraph 187 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 198 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.

The application form submitted with this application states that the proposal will be connected to the mains sewer. This is in accordance with the above policy requirements and is therefore considered to be acceptable in the event of an approval.

### 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.

This development is subject to the general duty outlined above.

### **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 excluding self builds. As this development is a self-build, and would be conditioned as such on any approval, it is not applicable for Biodiversity Net Gain.

### **Protected Designated Habitats**

The site falls within the recreational Zone of Influence (ZOI) of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). 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.

A Habitat Regulations Assessment has been completed for the proposal. The new development would be likely to increase the number of recreational visitors to the designated area and, in combination with other developments, it is likely that the proposal would have significant effects on the designated site. A condition would be imposed on any approval, to secure the appropriate mitigation which could be via a Unilateral Undertaking to secure the necessary financial contributions for RAMS to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

### **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 existing residential use (garden) of the land.

In conclusion, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

### **Renewable Energy**

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

The proposal is for one residential self-build dwelling with the potential to include renewable energy measures. It would therefore be 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 and will be included on any subsequent approvals.

### Flood Risk

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

The application site is identified within the Clacton on Sea Surface Water Management Plan (SWMP) study area as falling within the Critical Drainage Area (CDA). A CDA is a discrete geographic area (usually a hydrological catchment), within the SWMP Study Area where multiple or interlinked sources of flood risk cause flooding during a severe rainfall event thereby affecting people, property, or local infrastructure. 3 CDA's have been identified within the study area of Clacton and around 250 residential properties identified as being at risk of surface water flooding during a 1 in 100 year storm, or 1% Annual Exceedance Probability (AEP). This has potential to increase to around 580 residential properties should the upper limit of 40% be considered to account for future climate change. There is a history of surface water flooding within the area that reinforced the Lead Local Flood Authority's decision to conduct a more detailed study here.

As the application site lies within the settlement development boundary within the CDA it has already been sequentially tested and as a result is considered an acceptable location for residential development subject to an appropriately worded condition imposed on the grant of planning permission that secures the management of surface water on the site.

### Environmental Protection

The Environmental Protection team have reviewed the application and recommend the following comments:

Environmental Protection are satisfied with the submitted Construction Method Statement. This should be conditioned and adhered to.

A watching brief is recommended during any groundworks due to known historic contaminated land nearby the development site. If any unforeseen contamination is encountered during the development works this should be reported immediately so that appropriate action can be taken. Any ground contamination shall be recorded, remediated and a closure report with photographic evidence sent to Environmental Protection.

### Other Considerations

Clacton is non-parished and therefore no comments / consultations are required.

No letters of representation have been received.

### Conclusion/Planning balance

As detailed within the report the three windows (excluding the rooflight) serving the first floor rear facing main bedroom would have to be conditioned to be obscure glazed and non opening below 1.7m above floor level to prevent a significant loss of privacy to the neighbouring dwellings at 208 St Osyth Road and 2 Coronation Road. This would result in a feeling of enclosure and poor outlook for the future residents of the proposed dwelling. This feeling of enclosure is so significant and is not considered to be negated by the submitted design changes, including provision of a rooflight, in relation to previous application 23/01719/FUL and subsequent appeal decision 24/00037/REFUSE that it would be contrary to paragraph 135 of the NPPF and TDLP Policy SPL3.

The benefits of delivering one self-build dwelling can be given some weight in the overall planning balance, however this benefit is not considered to outweigh the harm to amenity and the application is recommended for refusal.

## **8. Recommendation**

Refusal – Full

## **9. Reasons for Refusal**

1. The National Planning Policy Framework (NPPF) at 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 SPL3 of the adopted Tendring District Local Plan 2013-2033 and Beyond Section 2 (TDLP) states new development should be compatible with surrounding uses and minimise any adverse environmental impacts. The following criteria must be met: e. buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents.

The three windows (excluding the rooflight) serving the first floor rear facing main bedroom would have to be conditioned to be obscure glazed and non opening below 1.7m above floor level to prevent a significant loss of privacy to the neighbouring dwellings at 208 St Osyth Road and 2 Coronation Road. This would result in a feeling of enclosure and poor outlook for the future residents of the proposed dwelling.

The benefit of delivering one self-build dwelling is not considered to outweigh this harm to amenity, contrary to paragraph 135 of the NPPF and TDLP Policy SPL3.

## **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):

Site Plan - Received 07 March 2025  
Drawing No. LSR-02 Revision D  
Broadband Details - Received 24 February 2025  
Construction Method Statement - Received 24 February 2025  
Energy Statement - Received 24 February 2025  
EV Charging Specification - Received 24 February 2025  
Planning Statement - Received 24 February 2025  
WATT A Save Report - Received 24 February 2025

## 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**

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