



## TENDRING DISTRICT COUNCIL

### Planning Services

Council Offices, Thorpe Road, Weeley, Clacton-on-Sea, Essex CO16 9AJ

**AGENT:** Miss Sarah Lowe - Peacock and Smith  
Suite 9C  
Josephs Well  
Hanover Walk  
Leeds  
LS3 1AB

**APPLICANT:** WM Morrison Supermarkets Plc  
C/o Agent

#### TOWN AND COUNTRY PLANNING ACT 1990

**APPLICATION NO:** 17/01878/FUL      **DATE REGISTERED:** 17th November 2017

Proposed Development and Location of Land:

**Development of a drive thru unit, car wash area, tyre service area and small retail pod (within and adjoining the existing car park).  
Morrisons Supermarket Centenary Way Clacton On Sea Essex**

THE TENDRING DISTRICT COUNCIL AS LOCAL PLANNING AUTHORITY **HEREBY REFUSE PLANNING PERMISSION** in accordance with the application form, supporting documents and plans submitted for the following reason(s)

- 1 Paragraph 127 of the National Planning Policy Framework (2018) states that planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties' and within QL11 (iv) states that development will only be acceptable if it will not have a materially damaging impact on air, land, water, amenity, health or safety through noise, smell, dust, light, heat, vibration, fumes or other forms of pollution or nuisance. These sentiments are carried forward in Policy SPL3 Part C (b) of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Policy COM22 of the Saved Plan states that noisy developments should be located away from sensitive developments unless adequate provision has been made to mitigate the adverse effects of noise likely to be generated or experienced by others.

There are adjacent properties to the south and east of the application site who form part of Highfield Holiday Park, and whilst these will not be occupied all year round, under planning permission 04/01359/FUL the caravans can be occupied between 1st March and 14th January each year. Whilst the car wash, retail pod and tyre service area are relatively low key operations and are sited far away from the nearest properties to the east and south, the drive thru element of the proposal is more closely related. Further, cooking odours, the likely hours of operation (11pm closing and 6am opening would not

be uncommon for this type of use), and the noise of the comings and goings of vehicles associated to the drive-thru unit have the potential to significantly impact upon the existing amenities of the aforementioned residents.

Despite numerous requests for the submission of amended plans to re-site the drive-thru element of the proposal further to the west of the application site, away from neighbouring residents, and to submit an Environmental Noise Assessment, neither has been supplied. Therefore, the applicant has failed to demonstrate that the proposed drive-thru unit can be operated without causing a significant adverse effect on the quality of life of the occupants of the adjacent caravans at Highfield Holiday Park and therefore fails to accord with the above policies.

**DATED:** 23rd August 2018

**SIGNED:**




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Catherine Bicknell  
Head of Planning

**IMPORTANT INFORMATION :-**

The local planning authority considers that the following policies and proposals in the development plan are relevant to the above decision:

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

COM22 Noise Pollution

ER32a Primary Shopping Area

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

PP1 New Retail Development

PP2 Retail Hierarchy

PP5 Town Centre Uses

SPL1 Managing Growth

SPL3 Sustainable Design

CP1 Sustainable Transport and Accessibility

**Positive and Proactive Statement**

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. 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.

**The attached notes explain the rights of appeal.**

## NOTES FOR GUIDANCE

### WHEN PLANNING PERMISSION IS REFUSED OR GRANTED SUBJECT TO CONDITIONS

#### APPEALS TO THE SECRETARY OF STATE

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.
- If you want to appeal, then you must do so within the set time frame as outlined below:
  - a. If this is a decision to refuse planning permission for a householder application, if you want to appeal against your local planning authority's decision then you must do so within **12 weeks** of the date of this notice. A **Householder Appeal Form** is required, available online at <https://www.gov.uk/planning-inspectorate>
  - b. If this is a decision to refuse planning permission for a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within **12 weeks** of the date of this notice. A **Planning Appeal Form** is required, available online at <https://www.gov.uk/planning-inspectorate>
  - c. If you want to appeal against your local planning authority's decision on a development which is not caught by a. and b. above then you must do so within **6 months** of the date of this notice. A **Planning Appeal Form** is required, available online at <https://www.gov.uk/planning-inspectorate>
- Appeals must be made using the relevant form (as detailed above) which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel: 0303 444 5000) or online at <https://www.gov.uk/planning-inspectorate>. **Please note, only the applicant possesses the right of appeal.**
- The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted permission for the proposed development or could not have granted it without the conditions imposed having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based its decision on a direction given by the Secretary of State.

#### ENFORCEMENT

- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of service of the enforcement notice, or within 6 months (12 weeks in the case of a householder or minor commercial appeal) of the date of this notice, whichever period expires earlier.