



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT:	Mr David Middleton - Savills (UK) Limited 16 Grosvenor Court Foregate Street Chester CH1 1HN	APPLICANT:	Tingdene Parks Limited Bradfield Road Finedon Road Industrial Estate Wellingborough Northamptonshire NN8 4HB
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TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 17/02055/FUL **DATE REGISTERED:** 29th November 2017

Proposed Development and Location of Land:

Variation of conditions 1,2,3,4,5,6,9 & 10 of planning application 16/00675/FUL to allow for the residential occupation of caravans permitted on the western part of the site.

Sacketts Grove Caravan Park Jaywick Lane 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 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require applications for planning permission to be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) (2018) is material planning consideration in the determination of planning applications and paragraph 15 states that the planning system should be genuinely 'plan-led'. Paragraph 103 in the NPPF requires the planning system to actively manage patterns of growth and states that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. The Council's adopted and emerging Local Plans seek to achieve this aim by defining 'settlement development boundaries' and by directing the majority of new development towards locations within those boundaries.

The development plan for this area is the Tendring District Local Plan 2007 (the 'adopted Local Plan') which is 'saved' beyond its intended timescale of 2011 under a direction from the Secretary of State. The application site lies outside of the settlement development boundary as depicted on the Local Plan's proposals maps. Policy QL1 in the adopted Local Plan states that development will be concentrated within the settlement development boundaries and that outside of the defined boundary and other specific land allocations in the plan, only development which is consistent with countryside policies will be permitted. Whilst the adopted Local Plan was only intended to cover the period to 2011, the NPPF in paragraph 213 allows Councils to give weight to existing policies according to their degree of consistency with the NPPF.

The application site also lies outside of the settlement development boundary as shown in Tendring District Local Plan 2013-2033 and Beyond - Publication Draft 2017 (the

'emerging Local Plan') which has been extended, as necessary, to meet longer-term objectively assessed housing and other development needs in the district, in line with the requirements of the NPPF. Policy SPL2 in the emerging Local Plan explains that settlement boundaries are defined to encourage sustainable patterns of growth and carefully control urban sprawl and that within the boundaries, there will be a general presumption in favour of new development. Paragraph 48 in the NPPF allows Councils to give weight to emerging plans according to their stage of preparation, the extent of unresolved objections and the degree of consistency with the NPPF.

Paragraph 73 of the NPPF requires Councils to identify and update annually a supply of specific deliverable sites to provide five years worth of housing against their housing requirements with an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply. Where a Council is unable to demonstrate a five year supply of deliverable housing sites, or housing delivery has been less than 75% of the housing requirement over the previous three years, paragraph 11 d) of the NPPF requires applications to be approved unless the application of policies in the NPPF that protect assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts would significantly and demonstrably outweigh the benefits. At the time of this decision, the Council is able to demonstrate a robust five year supply of deliverable housing sites and housing delivered over the previous three years has been comfortably above 75% of the requirement there is consequently no need for the Council to consider an exceptional departure from the Local Plan on housing supply grounds.

This application proposes the use of land for residential 'park homes' instead of caravans for holiday use, as per the extant planning permission 16/00675/FUL. In effect, this is a proposal to create residential dwellings on land outside of the settlement development boundaries which is contrary to Policy QL1 in the Council's adopted Local Plan, Policy SPL2 in the emerging Local Plan and the NPPF which advocates a plan-led system.

The Council has given careful consideration to the applicant's suggestions 1) that the development would impact and appear no different on the locality to the holiday use already permitted and 2) that the park homes would provide a form of accommodation to the specific needs and demands of older and retired residents that are unlikely to be met through the land allocations in the adopted and emerging Local Plans. However, the granting of planning permission for holiday use outside of settlement development boundaries is allowed through specific Local Plan policies to enable existing parks to expand and to support growth in the tourist economy whereas policies for housing are to direct new homes to specifically-allocated sites and other land within settlement development boundaries. Furthermore, the allocation of sites for housing, the definition of the settlement development boundaries and the requirement to demonstrate a five-year supply of housing sites and meet the NPPF's housing delivery tests are all based on objectively assessed housing needs which take into account all market and affordable housing needs across the full range of size, types and tenures and the needs arising from all sections of the community including those wishing to retire. There is consequently no justification for considering an exceptional departure from the relevant housing policies to accommodate this form of development which would run contrary to a genuinely plan-led approach.

- 2 The National Planning Policy Framework (NPPF) (2018) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations (paragraph 54). Planning obligations should only be sought where they meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

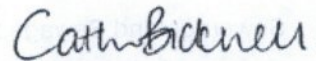
Policy HG4 of the Tendring District Local Plan (2007) requires up to 40% of new dwellings on residential schemes of 15 or more units to be provided in the form of affordable housing to meet the needs of people that are unable to access property on the open market. Policy LP5 of the Tendring District Local Plan: 2013-2033 and Beyond - Publication Draft (2017), which is based on more up-to-date evidence of housing need and viability, requires for developments of 11 or more dwellings, the Council expect 30% of new dwellings to be made available to Tendring District Council or alternative provider to acquire at a discounted value for use as affordable housing, or as an alternative, the Council will accept a minimum of 10% if new dwellings are to be made available alongside a financial contribution toward the construction or acquisition of property for use as affordable housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement. This application effectively proposes the creation of 104 residential caravans which, despite being of lower build cost than standard housing, are not considered to meet the definition of affordable in that they will not meet the needs of people who are unable to afford or rent property on the open market. The requirements of Policies HG4 and LP5 are therefore applicable, however a completed Section 106 legal agreement has not been provided prior to the application determination date and the application is therefore contrary to the above policy.

Policy COM26 of the Tendring District Local Plan states where necessary planning permission will only be granted for residential developments of 12 or more dwellings of 12 or more dwellings if land and/or financial contributions are made to provide the additional school places that will be needed to service the development. Policy PP12 of the Tendring District Local Plan: 2013-2033 and Beyond - Publication Draft (2017) states planning permission will not be granted for new residential development unless the individual or cumulative impacts of development on education provision can be addressed, at the developer's cost, either on-site or through financial contributions towards off-site improvements. Unless appropriate secure arrangements are put in place to ensure the properties can be occupied by adults only, financial contributions toward early years and childcare, primary and secondary education provision would be required. A completed Section 106 obligation to secure these contributions or put in place appropriate controls on occupation has not been provided prior to the application determination date and the application is therefore contrary to the above policies.

Policy HP1 of the Tendring District Local Plan: 2013-2033 and Beyond - Publication Draft (2017), states that the Council will seek contributions towards new or enhanced health facilities from developers where new housing development would result in a shortfall or worsening of health provision. NHS England has identified the need for financial contributions toward local health services. A completed Section 106 obligation to secure these contributions has not been provided prior to the application determination date and the application is therefore contrary to the above policy.

DATED: 9th October 2018

SIGNED:



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

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL3 Minimising and Managing Flood Risk

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

HG1 Housing Provision

HG3A Mixed Communities

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG13 Backland Residential Development

COM1 Access for All

COM6 Provision of Recreational Open Space for New Residential Development

COM24 Health Care Provision

COM26 Contributions to Education Provision

COM29 Utilities

COM30 Electricity Supply

COM31A Sewerage and Sewage Disposal

EN1 Landscape Character

EN4 Protection of the Best and Most Versatile Agricultural Land

EN6 Biodiversity

EN6A Protected Species

TR1A Development Affecting Highways

- TR1 Transport Assessment
- TR2 Travel Plans
- TR5 Provision for Cycling
- TR6 Provision for Public Transport Use
- TR7 Vehicle Parking at New Development
- Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)
- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Strategy for North Essex
- SP3 Meeting Housing Needs
- HP2 Community Facilities
- HP3 Green Infrastructure
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP5 Affordable and Council Housing
- LP8 Backland Residential Development
- PP12 Improving Education and Skills
- PPL1 Development and Flood Risk
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL7 Archaeology
- PPL9 Listed Buildings
- CP1 Sustainable Transport and Accessibility
- CP3 Improving the Telecommunications Network
- SPL2 Settlement Development Boundaries

HP1 Improving Health and Wellbeing

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.