



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT:	Mr Tony Collins - Collins & Coward Ltd The Courtyard 9A East Street Coggeshall CO6 1SH	APPLICANT:	Mrs Helen Pudney Land at North Street Walton On The Naze Essex CO14 8PH
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TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 18/01098/OUT **DATE REGISTERED:** 11th July 2018

Proposed Development and Location of Land:

**Erection of 16 residential units, car parking, access, landscape, infrastructure and ancillary works.
Land at North Street Walton On The Naze Essex**

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

- 1 The National Planning Policy Framework (2018) attaches great importance to the design of the built environment and confirms good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings. Paragraph 127 of the NPPF states planning policies and decisions should ensure that developments will function well and add to the overall quality of the area and are sympathetic to the local character and history, including the surrounding built environment and landscape setting.

The adopted Tendring District Local Plan (2007) saved Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form whilst ensuring that development does not have a materially damaging impact on the privacy and amenity of occupiers of nearby properties. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) carries forward the sentiments of these saved policies stating that all new development must make a positive contribution to the quality of the local environment and protect or enhance local character.

In this instance the indicative plans submitted do not suitably demonstrate that the site could accommodate 16 properties in a manner which would leave sufficient spacing between the two proposed blocks and nearby buildings. The visualisations provided show that the development would appear excessively tall in relation to surrounding two-storey development and due to the overly bulky form of the proposed buildings, which in some places extend the whole depth of the site, they would appear cramped on this limited site and at odds with the scale and spacing of surrounding built form. In addition, the indicative plans show that to accommodate the parking needs of the development parking spaces would need to be provided via an

undercroft to the front of the proposed buildings. As a result the development would appear car dominated in views from Walton Mere and from the adjacent footpath.

To summarise, a proposal that more sensitively addresses the context is possible for the development of this site, however due to the concerns identified above in respect of the massing and bulk of the buildings, the spacing to nearby properties and the car dominated nature of the development when viewed from Walton Mere, the development of the site for 16 no. dwellings is considered to represent an over-development of the site that would be detrimental to the character of the locality.

- 2 The National Planning Policy Framework (2018) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

Saved Policy COM6 in the Tendring District Local Plan (2017) and Draft Policy HP4 of the emerging Local Plan require residential developments to make financial contributions toward off-site play provision. The Council's Open Space Team has commented on the application and has confirmed that due to the lack of facilities in the area it is felt that a contribution towards play is justified and relevant to this planning application. The comments confirm that any contribution would be used for improvements to the Bathhouse Meadow Play Area.

Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available for affordable or Council Housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement. Due to the flatted nature of the development the Council's Housing Department have requested the provision of a financial contribution to be provided in lieu of affordable housing on the site.

A completed Section 106 to secure the above-mentioned planning obligations has not been provided prior to the application determination date and the application is therefore contrary to the above policies.

- 3 Paragraph 175 of the National Planning Policy Framework states that when determining applications, local planning authorities should apply a number of principles including: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Saved Policies EN6 and EN6a of the adopted Tendring District Local Plan (2007) require existing biodiversity and geodiversity to be protected and enhanced with compensation measures put in place where development will cause harm and to ensure protected species are not adversely impacted by new development. Saved Policies EN11b and EN11c concern the protection of National Sites and Local Sites and state that development likely to have an adverse effect upon these sites will not be permitted unless the reasons for the development clearly outweigh the nature conservation value of the site itself.

Hamford Water SPA is a large shallow estuarine basin comprising tidal creeks, intertidal mud, sand flats and saltmarshes, as well as areas of scrub and unimproved grassland to the landward side of the sea walls.

Walton Mere Local Wildlife Site comprises an area of saltmarsh to the northwest

which is contiguous with the saltmarsh habitat of Hamford Water SPA, and an area of developing saltmarsh flora. The Mere forms a natural extension to the SSSI habitats of Hamford Water and provides important supporting habitat for qualifying interest features (wildfowl and waders) of the SPA. Walton Mere functions as an important high tide roost for a range of wintering birds.

Special Protection Areas (SPA) are given special protection under the European Union's Birds Directive, and in the UK through the Conservation of Habitats and Species Regulations 2010. With Special Areas of Conservation they form the Natura 2000 series across Europe. All land-based sites are SSSIs; marine sites may extend beyond the SSSI boundary. They are designated for their birdlife, including rare and vulnerable birds and for regularly occurring migratory species. Planning authorities are required to carry out a Habitats Regulations Assessment for any plan, programme or project (including development plans and planning permissions) to ensure that any impacts are not detrimental to the features for which the sites are designated.

The proposed development would be located directly adjacent to an area of intertidal foreshore that is hydrologically and functionally linked to the SPA and has significant nature conservation value.

In this instance insufficient information has been provided with this application to enable Tendring District Council as the competent authority to conduct a Habitats Regulations Assessment. Regulation 61(2) of the Habitats Regulations requires the applicant to provide such information as the competent authority may reasonably require for the purposes of Appropriate Assessment, including the information necessary to assess the impacts of the development and to demonstrate, where possible, that these can be satisfactorily addressed through appropriate and secured mitigation.

Wintering bird surveys are therefore required to establish the numbers and distribution of SPA birds using the Mere as a high tide roost and/or feeding resource throughout the late autumn, winter and early spring. The data from the surveys should then be used to inform the Appropriate Assessment.

In the absence of such information the application is contrary to the NPPF and Saved Policies EN6, EN6a, EN11b and EN11c of the Tendring District Local Plan (2007).

- 4 Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 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. Furthermore, saved Policy TR1a requires new development to be considered in relation to the road hierarchy to reducing and preventing hazards and inconvenience to traffic.

In this instance, the additional swept path analysis drawings do not demonstrate refuse vehicles or small delivery vehicles can access the site without significant overruns of the footways introducing additional hazards to pedestrians and other highway users, contrary to the interests of highway safety. Also, the swept path analysis drawings do not demonstrate efficient and convenient ingress, egress and turning manoeuvres into and out of the parking spaces also contrary to the interests of highway safety.

Furthermore, it would also appear that the proposed off street parking facilities fail to provide any visitor parking spaces contrary to the current Parking Standards, this is likely to lead to additional vehicles being left parked in the adjoining highway and access route causing conditions of danger, obstruction and congestion contrary to highway safety.

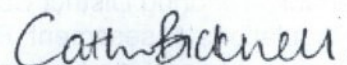
The applicant also fails to demonstrate that Public Footpath 51 will not be interfered with, cause obstruction of that footpath and will not produce additional hazards to pedestrians on the Definitive Route or that it can be diverted maintaining its original width throughout the proposed development site, contrary to highway safety.

It is also observed that there appears to be discrepancies in the dimensions of parking spaces and aisle width on Drawing Numbered 1316/SK07, the aisle width fails to be provided at the absolute minimum of 6.0m in width and the parking spaces appear undersized. This discrepancy is misleading and questions the integrity of all submitted drawings. The undersized parking spaces fail to be provided dimensionally in accord with the current Parking Standards and fail to provide any circulatory space around each vehicle and enable doors to be opened fully. The supporting piers are also impinging on access to each vehicle. Where parking spaces are constrained by structures, these spaces should be shown enlarged to ideally 3.4m in width.

Whilst the application is in outline form with all matters reserved the points noted above confirm that it has not been suitably demonstrated that the development can be accommodated on this site without compromising highway safety and providing adequate off-street parking provision.

DATED: 10th 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

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL3 Minimising and Managing Flood Risk

QL6 Urban Regeneration Areas

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

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

- HG7 Residential Densities
 - HG9 Private Amenity Space
 - HG14 Side Isolation
 - COM1 Access for All
 - COM2 Community Safety
 - COM6 Provision of Recreational Open Space for New Residential Development
 - COM23 General Pollution
 - EN1 Landscape Character
 - EN6 Biodiversity
 - EN6A Protected Species
 - EN11B Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites
 - EN11C Protection of Local Sites: Local Nature Reserves, County Wildlife Sites, Regionally Important Geological/Geomorphological Sites
 - TR1A Development Affecting Highways
 - TR7 Vehicle Parking at New Development
- Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)
- SPL1 Managing Growth
 - SPL2 Settlement Development Boundaries
 - SPL3 Sustainable Design
 - LP1 Housing Supply
 - LP2 Housing Choice
 - LP3 Housing Density and Standards
 - LP4 Housing Layout
 - LP5 Affordable and Council Housing
 - PP14 Priority Areas for Regeneration
 - PPL1 Development and Flood Risk
 - PPL4 Biodiversity and Geodiversity
 - PPL5 Water Conservation, Drainage and Sewerage
 - HP4 Safeguarded Local Greenspace
- Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

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 reasons 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.