



## TENDRING DISTRICT COUNCIL Planning Services

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

**AGENT:** Mr Andrew Houghton  
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**APPLICANT:** Mr Mark J Morsley  
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### TOWN AND COUNTRY PLANNING ACT 1990

**APPLICATION NO:** 18/01867/FUL

**DATE REGISTERED:** 12th November 2018

Proposed Development and Location of Land:

**Proposed building containing two one-bedroomed apartments.  
Land to The rear of 14 to 18 South Street Manningtree 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 The conservation of the historic environment and that of designated heritage assets in particular, is recognised in the National Planning Policy Framework 2018 (NPPF) as part of sustainable development and a core objective of the planning system at paragraphs 8 and 20. The NPPF at paragraph 189 states that in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. Paragraph 194 of the NPPF states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 194 of the NPPF states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 195 goes on to say that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss.

Saved Policy EN23 of the Adopted Tendring District Local Plan (2007) and Draft Policy PPL9 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) state that proposals for development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest and are fully justified through an informed assessment and understanding of the significance of the heritage asset and its setting. The policies further confirm that development should be of a scale and design that respects the listed building and its setting.

Saved Policy EN17 states development within a conservation area must preserve or

enhance the character and appearance of the conservation area and that development will be refused where it would harm the character and appearance of the conservation area, including the historic plan form, relationship between buildings, the arrangement of open areas and their enclosure, grain or significant natural or heritage features. Saved Policy HG3 states within the defined development boundaries residential development will be permitted provided it satisfies amenity and design criteria and can take place without material harm to the character of the local area. Saved policy HG14 states that for new dwellings over 4m in height appropriate open space between the dwelling and side boundaries of the plot shall be retained to ensure the development is appropriate in its setting and does not create a cramped appearance.

In this instance, the application proposes the erection of a 2 storey building to accommodate 2 flats situated on a small parcel of land currently utilised for parking purposes. The building would measure 8.7m to ridge height and 6m to the top of the eaves and would be sited only 1m from the rear elevation of 14-18 South Street to the east, which is a Grade II Listed Building. The building would be located hard up against its western boundary. As a result the building would extend across the vast majority of the plot and due to its limited separation with 14-18 South Street to the east would appear cramped and would overwhelm, dominate and block views of the listed buildings to the east in views along Stour Street from the west. The development is considered to represent an over-development of a small parcel of land which would, due to its cramped appearance, erode the character and appearance of the Manningtree Conservation Area and would be detrimental to the setting of the Grade II Listed buildings to the east. The submitted Heritage Statement does not sufficiently assess the importance of the heritage assets affected nor the potential impact of the development upon their significance contrary to the aforementioned local and national planning policies. The public benefit accrued from the modest provision of 2 additional dwellings on the land is not considered to override or justify the significant harm identified.

- 2 Paragraph 127 of the National Planning Policy Framework 2018 (NPPF) states planning decisions should ensure that developments are visually attractive with a high standard of amenity for existing and future users. Saved Policy QL11 states development will only be permitted where it will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. Emerging Policy SPL3 states all new development must make a positive contribution to the quality of the local environment and buildings should be designed and orientated to ensure adequate daylight and outlook for existing residents.

The new building would be located in close proximity to the rear elevation of 14-18 South Street to the east. In 2009 planning permission was granted to convert the ground floor of the nearest element of that building into a residential use. Consequently, to the rear elevation facing onto the application site are two windows that serve kitchens which, due to the close proximity and height of the proposed building, would suffer a significant loss of outlook and natural light to the significant detriment of the resident's amenity.

The proposed development would therefore be significantly detrimental to neighbouring residents at no. 18a and 18b South Street in respect of loss of outlook, natural light and the overbearing and oppressive nature of the development, contrary to the aforementioned planning policies.

- 3 Paragraph 127 of the National Planning Policy Framework 2018 (NPPF) states planning decisions should ensure that developments are visually attractive with a high standard of amenity for existing and future users.

Saved Policy QL10 of the Tendring District Local Plan (2007) requires that all new development should meet functional requirements. In particular the policy states that

planning permission will only be granted if; provision is made for functional needs including private amenity space, waste storage, separation and recycling facilities and cycle parking. Saved Policy HG9 regarding private amenity space stipulates that flats should be provided with either 25 square metres per flat communally or 50 square metres for a ground floor flat and minimum balcony area of 5 square metres for units above. Emerging policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) again reflects these requirements.

In this instance the proposal does not accord with the aspirations of saved policies QL10, HG9 and emerging policy SPL3 in terms of quality of life for the occupants. The development does not make provision for basic functional needs including useable private amenity space and waste storage/separation and recycling facilities. In respect of private amenity space provision the dwellings would be served by a small courtyard area to the rear of the property measuring approximately 9sqm which is only accessible via a courtyard area serving an adjacent flat. The small courtyard would be enclosed by surrounding buildings and therefore receive limited sunlight. The private amenity space provision is therefore significantly below that required by the saved local plan policy and due to its enclosed siting not useable to the detriment of future residents amenity. In addition the plans do not show any cycle parking provision or waste storage/recycling facilities.

Therefore the development evidently fails to meet the functional needs of any residents to the significant detriment of their residential amenity.

- 4 The proposed development fails to provide sufficient off street parking facilities for the proposed dwellings in line with the current Parking Standards and displaces the existing parking provision for the commercial uses in at 14-18 South Street. The proposal would therefore lead to additional vehicles being left parked in the access route or adjoining highway causing conditions of danger, obstruction and congestion, contrary to highway safety. The proposed development therefore fails to provide car parking facilities sufficient to satisfy the likely demands of the site and surrounding uses, thereby contrary to Saved Policy TR7a, Emerging Policy SPL3, Essex County Council Parking Standards (2009), and Saved Policy QL10 (vi) which require new development to be designed to meet its functional needs.

DATED: 7th January 2019

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

QL9 Design of New Development

- QL10 Designing New Development to Meet Functional Needs
  - QL11 Environmental Impacts and Compatibility of Uses
  - HG3 Residential Development Within Defined Settlements
  - HG7 Residential Densities
  - HG9 Private Amenity Space
  - HG14 Side Isolation
  - EN17 Conservation Areas
  - EN23 Development Within the Proximity of a Listed Building
  - TR1A Development Affecting Highways
  - TR7 Vehicle Parking at New Development
  - COM6 Provision of Recreational Open Space for New Residential Development
- Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)
- SPL1 Managing Growth
  - SPL2 Settlement Development Boundaries
  - SPL3 Sustainable Design
  - LP3 Housing Density and Standards
  - LP4 Housing Layout
  - PPL8 Conservation Areas
  - PPL9 Listed Buildings
  - CP1 Sustainable Transport and Accessibility
  - HP5 Open Space, Sports & Recreation Facilities
- 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 Agent. 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.**

**APPEALS TO THE SECRETARY OF STATE**

If you are dissatisfied 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 wish to appeal then you must do so within the set time frame set out below. If this is a decision to refuse planning permission for a householder application it will be 12 weeks from the date of the decision. A Householder Appeal Form is required available online at <http://www.gov.uk/government/guidance/householder-appeals>.

If there is a decision to refuse planning permission for a minor change of use application it will be 12 weeks from the date of the decision. A Planning Appeal Form is required available online at <http://www.gov.uk/government/guidance/planning-appeals>.

If you wish to appeal against your local planning authority's decision on a development which is not caught by a time limit above then you must do so within 6 weeks of the date of the decision. A Planning Appeal Form is required available online at <http://www.gov.uk/government/guidance/planning-appeals>.

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 6PH (Tel: 0303 44 1400) or online at <http://www.gov.uk/government/guidance/planning-appeals>. 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 do this to use his power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not interfere in a case 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 with the conditions imposed having regard to the authority's requirements for the provision of the development and to any conditions given under a development order.

In practice the Secretary of State does not interfere in cases where there is a time limit for local planning authority based its decision on a condition given by the Secretary of State.

**ENT ORIGINALLY**

If this is a decision to a planning application relating to the same site, you may be able to appeal to the Secretary of State if you want to land and development is already the subject of an enforcement notice. If you want to appeal against your local planning authority's decision to your appeal then you must do so within 28 days of the date of the notice.

If an enforcement notice is issued relating to a site of significance by the local planning authority in your application and if you want to appeal against your local planning authority's decision on your application, it can be made within 28 days of the date of the enforcement notice or within 6 weeks in the case of a enforcement notice issued by the Secretary of State. If you want to appeal to the Secretary of State you must do so within 28 days of the date of the enforcement notice.

## 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.