



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT:	Design & Development Consultancy - Mr I Spencer Herringbone Harold Way Frinton On Sea Essex CO13 9BA	APPLICANT:	Mr John Lynch - South East Developments Limited Woodcote East Bergholt CO7 6QT
---------------	--	-------------------	--

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 17/01912/OUT **DATE REGISTERED:** 6th November 2017

Proposed Development and Location of Land:

**Residential development of five bungalows.
Land at rear of 3 Mill Lane Weeley Heath Clacton On Sea**

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 application site is located outside of the Settlement Development Boundary for Weeley Heath as defined within the saved Tendring District Local Plan 2007 and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). Saved Policy QL1 of the Tendring District Local Plan (2007) seeks to direct development towards larger urban settlements defined within the Local Plan. Outside Development Boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.

The planning principles under paragraphs 15, 17 and 20 of the National Planning Policy Framework (2019) state that the planning system should be genuinely planned, must include strategic policies to address local planning authority's priorities for the development and use of land, and should set out an overall strategy for the pattern, scale and quality of housing development.

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing

up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local Plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

With this in mind, the emerging Local Plan includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development towards the most sustainable locations. Weeley Heath is categorised in emerging Policy SPL1, along with seventeen other villages, as a 'Smaller Rural Settlement' in recognition of its size and relatively small range of local services. Weeley Heath and other smaller villages are considered to be the least sustainable settlements for growth and development should normally be restricted to small-scale development only, respecting the existing character and form of the village. Consequently the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) settlement development boundaries for Weeley Heath have been extended to accommodate the growth envisaged over the plan period. However, their extended defined boundaries do not include the proposed application site. As such the application site location is not considered to be a sustainable location for growth.

The NPPF advocates a plan-led approach that actively seeks to achieve sustainable patterns of growth. The proposed development however, due to its location outside of any defined settlement development boundary, is not considered sustainable.

- 2 Saved Policy HG13 of the adopted Tendring District Local Plan (2007) and draft policy LP8 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) relate to backland residential development. These policies require, amongst other things, that proposals for residential development of backland sites must not be out of character with the area or out of character in its particular setting. The policy also states that long or narrow accesses will be discouraged.

Saved Policies QL9, QL10 and QL11 of the adopted Tendring District Local Plan (2007) seek to ensure that new development relates well to its site and surroundings and the size, scale, design and appearance of new development are in keeping. Draft Policy SPL3 states that new development should be well designed and maintain or enhance local character and distinctiveness.

Paragraph 127 of the National Planning Policy Framework (Framework) states that planning policies and decisions should ensure that developments; will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and history, including the surrounding built environment and landscape setting and establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials.

In this instance the development would be served by a narrow and long access drive located in close proximity to existing properties. Consequently the incongruous layout of the proposal set behind an existing residential linear frontage and served by a narrow and convoluted vehicular access would be at odds with the pattern of built form in the vicinity and significantly harm the character and appearance of the area, which would set a harmful precedent for other similar forms of development in the vicinity contrary to the aforementioned local and national planning policies.

- 3 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. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) in particular the Colne Estuary SPA and Ramsar site, mitigation measures will need to be in place prior to occupation.

A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

- 4 Paragraph 34 of the National Planning Policy Framework (2019) states that local plans should set out the contributions expected from development. In this respect Saved Policy COM6 in the Tendring District Local Plan (2017) requires that for residential development below 1.5 hectares in size, where existing public open space facilities are inadequate, a financial contribution towards the provision of new or improved off-site facilities to meet the projected needs of the future occupiers of the development shall be provided. A completed Unilateral Undertaking to provide the required financial contribution towards play provision has not been provided and the proposal is therefore contrary to Saved Policy COM6 and the National Planning Policy Framework (2019).

DATED: 4th April 2019

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 February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG9 Private Amenity Space

HG13 Backland Residential Development

HG14 Side Isolation

EN1 Landscape Character

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN23 Development Within the Proximity of a Listed Building

COM6 Provision of Recreational Open Space for New Residential Development

TR1A Development Affecting Highways

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

SPL1 Managing Growth

SPL3 Sustainable Design

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP8 Backland Residential Development

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

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

Essex Design Guide

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.