

TENDRING DISTRICT COUNCIL

PLANNING COMMITTEE

ALTERATIONS AND ADDITIONS TO PLANNING COMMITTEE

09TH APRIL 2019

AGENDA ITEM A.2

18/01767/OUT - Land East of New Road, Mistley, Essex, CO11 2AG

Variation of Condition 4 approved plans 0964-F01 rev D, and 1628 URB XX XX GA 90 001 Rev H) of APP/P1560/W/17/3176089, to provide a re-worked layout to provide wider roads to improve emergency access and to incorporate a mix of housing types including detached dwellings, semi-detached properties and apartments.

Additional Condition;

- *Removal of Permitted Development Rights (Classes A and E of the GPDO 2015) – Extensions and Outbuildings.*

AGENDA ITEM A.3

18/01585/OUT - Land to The rear of 62 to 68 Holland Road Little Clacton Essex CO16 9RS

Erection of 8 bungalows

Revised recommendation received from Public Realm following request from Little Clacton Parish Council regarding plans to provide a MUGA at the existing playing field;

- *Recommendation*
Due to the significant lack of play facilities in the area, a contribution towards play is justified and relevant to the planning application. Since completing the original consultation the Parish Council have contacted us as they have plans to provide additional facilities for older children at Parish Playing Fields (1.1 miles from the development). Harold Lilley Playing Field is designed as a LEAP and caters for younger children although closer to the development (0.5) has recently been up graded.

The original comments from Public Realm requested a contribution to 'improve the facilities at Harold Lilley Playing Field - Little Clacton'. This has now been revised so that the contribution would be spent toward providing a MUGA at the Plough Corner Recreation Ground at the request of the Parish Council.

AGENDA ITEM A.4

19/00090/FUL - Red House, High Street, Great Oakley, Harwich, CO12 5AQ

Demolition of Red House to allow for proposed community hub building incorporating café/tea rooms with community and social centre and 3no. one bedroom flats above.

1. An email has been received from the agent for the application, dated 28 March 2019, with a summary of this listed below.

- Highlighted concern at the nature and form of consultee response from the Essex County Council Historic Environment team;
- Questioned if the Historic Environment team or Officers working on the application had internally inspected the property; (*the building is not listed and the interior is not therefore protected. The application is assessing the external impacts of the proposal, plus the requirement for specialist evidence that the building is beyond economic repair*)
- Referred to paragraph 7.7 of the Planning Statement, which outlines the difficulties with the existing floor line being below pavement level and that the neighbouring cottage prevents an increase in the ridge beyond what has been shown on the plans. It is argued that the alternatives would be to increase the eaves level and set the dormers into the roof, which would appear contrived, or a single storey development that would be entirely out of keeping within the local context;
- Expressed incredulity at the suggestion the proposal represented an overly urban appearance; and
- The proposed infill will represent a restoration to its original state.

The email also confirmed the applicants wish for the proposed car park to be deleted from the application. Therefore this now does not form part of the determination of this application. Refusal reason Number 3 is accordingly removed.

2. The revised wording for refusal reason number 3 (formally refusal reason number 4) is as follows:

“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 Hamford Water 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.”

3. Reason for refusal 1 has been amended from paragraph 6 onwards to confirm the harm is less than substantial and therefore paragraph 196 of the NPPF applies. These amendments are also relevant to paragraphs 6.17, 6.18 and 6.37 of the report, which should confirm the harm is **less than** substantial.

Consequently, the demolition of this building is considered to cause less than substantial harm to the Great Oakley Conservation Area and therefore the requirements of paragraph 196 of the NPPF apply. This paragraph states that, 'where

a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

In this instance insufficient information has been provided to demonstrate that the requirements of saved policy EN20 and the relevant paragraphs of the NPPF stated above have been met. The proposal includes the demolition of a non-designated heritage asset.

Further, the structural survey, which is a high level condition survey, highlights defects and lists a scheme of works likely to be involved to retain the building, stating "*The above works are likely to be slow, intensive and difficult to execute, we envisage they will be expensive*", however concludes "*In order to establish the exact causes of the damage and the appropriate scope and the full extent of the repairs required, a much more detailed investigation would be needed.*" There are no details provided in relation to what the costs would be to retain the building, even if only partly retained, with the report itself stating "*cost will play a large part in determining which the most viable course of action is and professional advice should be sought in this respect.*" While there has been some intrusive alteration to the building, including the existing fenestration, which detracts from the aesthetic value of the building, this could easily be improved. Accordingly, the survey does not justify and provide a robust case for the buildings demolition.

Paragraph 189 of the NPPF states that, 'local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting'. The submitted Heritage Statement is not detailed enough to fully assess the significance of this building; more detailed research to understand the buildings evolution and its evidential/historic/aesthetic/communal values both in terms of the conservation area and its interior plan form/fixtures and fittings would be expected.

Consequently in the absence of the historic statement providing sufficient analysis of the affected heritage assets and the structural survey not sufficiently justifying a robust case for the buildings demolition, the proposal is considered to be contrary to the aforementioned local and national planning policies.

AGENDA ITEM A.5

15/01745/OUT – Former Putting Green, Garden Road, Jaywick, CO15 2RT

Change of use of land to residential to incorporate the erection of up to 10 dwellings.

4 additional letters of objection have been received for a local resident which are summarised as follows:

- There are 1254 properties for sale, just of Rightmove, within 3 miles of the development site, which is the size of Jaywick up for sale, not in the whole of Tendring, but just within a 3 mile radius.
- There are 38 properties for sale within 400 metres of the site and all but 3 are less than £160,00, with the cheapest at £60,000. According to the Housing Needs Study, prices have been flat since 2009, that's 10 years, which indicates no shortage of housing.

- There might be a shortage of truly affordable housing, but 3 ½ storey housing are not going to meet that criteria.
- There is not a shortage of unaffordable dwellings; so no more are needed.
- The Council can provide housing in excess of the Objectively Assessed Housing Need and therefore the development is not necessary.
- The application to building on a flood risk Zone 3 fails to meet the NPPF requirements and should be refused.
- The site is allocated as open space, the report advises that as it is private ownership recreational open space cannot be enforced. This argument is flawed as the planning process can decide what use it allowable on land, the application could be refused and only an application for recreational use be granted. It is within the Council's power to stop this land becoming residential.
- The application is contrary to the 1934 Covenant/Agreement
- The NPPF's exception test cannot only be applied to meet the requirements of the NPPF, it is also necessary to apply the Sequential Test which has been done.
- The proposal will result in sunlight being completely blocked from the front gardens and windows of Garden Road through the whole of the morning, and from the rear gardens and windows of Golf Green Road through till sunset. Those gardens today are the recreational space for children and contain greenhouses and fruit trees. Most are set up to so the evening sun can be enjoyed.
- The proposal does not regenerate the area to justify the adverse impact on neighbours amenities.

The Council has also been contacted by a third party, who did not state whether they objected to or supported the application, to say that there is a planning agreement dated 1936 which related to this application site and "is...a planning agreement dating from 1936 entered in to by Clacton UDC and the original land owner Frank Stedman, and which prevents development on the site if other land in the area was developed." The correspondence then goes on to say such development took place and in the third parties' opinion the agreement is extant and should be considered a material planning consideration.

Officer's Response:

The majority of the above issues have been addressed in the Officer Report, but members should note that the site lies within the Settlement Development Boundary of Jaywick and therefore there is no need for the developer to justify a need for the proposed housing.

With regard to the agreement/covenant referred to, Officers have been unable to locate a 1936 agreement as referred to but are aware of the existence of a 1934 agreement that Land Charges record as being entered into under the Urban District Council's powers in the Town and Country Planning Act 1932, section 34. Officers understand that agreements under that section were locally referred to as "Section 34 orders" and they allowed local Council's to reserve areas as private open space while undertaking development planning. Here, the Owner was contracting to "forgo any right to compensation for sterilising the land as private open space" as requested by the Clacton Urban District Council in 1934 and leave the application site as private open space, along with other land, while developing the surrounding estate. The agreement set out how a scheme of development in Jaywick was to happen around the time of the agreement and contained obligations on the Owner and the Council.

It is the Officers' opinion that the subject matter of the agreement is sufficiently dealt with in the Officer report: current designation of land is a material consideration and as the Local Plan allocation for the application site is 'Open Space' this has been addressed. The land remains in private ownership and is referred to in the agreement as "private open space" which is consistent with the Officer's analysis of the current position.