



TENDRING DISTRICT COUNCIL

Planning Services

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

APPLICANT: Mr Derek Shannon
55 Buckland Way
Worcester Park
Surrey
KT4 8NT

AGENT:

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 19/00219/FUL

DATE REGISTERED: 5th March 2019

Proposed Development and Location of Land:

**Removal of condition 2 of application TEN/119/59 to allow all year occupancy.
128 Colne Way Point Clear Bay St Osyth Clacton On Sea**

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 Paragraph 155 of the National Planning Policy Framework ("the Framework") states that "inappropriate development in areas at risk of flooding should be avoided by directing development away from areas of high risk". Paragraph 157 of the Framework requires that the sequential test be passed in areas of high flood risk. A similar approach is taken in Policy QL3 of the "Saved" Tendring District Local Plan (2007) and "Draft" Policy PPL1 of the Tendring District Local Plan: 2013-2033 and beyond Publication Draft.

The application site is a single-storey detached property forming part of a wider chalet park. Year round residential use of the site is prevented by existing conditions relating to planning permission ref: TEN/119/59. The site is located in an area of high flood risk (Flood Zone 3).

The proposal seeks year round residential use of the site through the relaxation of a condition. Such a proposal would increase the flood vulnerability of the site from "more vulnerable" to "highly vulnerable". Therefore the proposal would constitute inappropriate development in an area at risk of flooding and would be contrary to the afore-mentioned policies and Paragraphs of the Framework.

- 2 The application site lies outside of a Settlement Development Boundary as defined within the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The National Planning Policy Framework 2019 (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 report, 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. There are therefore significant doubts about the validity or extent of any housing supply 'deficit', albeit the tilted balance applies. This minimises the reduction in weight to conflict with Policy QL1, as per the Hallam Land judgement, especially in view of the fact that the Council has considerably increased its housing delivery figures in recent years.

Whilst it is recognised that there would be conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site being sited outside the settlement development boundary, as stated above, in the context of the 5 year housing land supply paragraph 11 d) of the NPPF requires applications for housing development to be assessed on their merits, whether sites are allocated for development in the Local Plan or not and it is important to consider whether any circumstances outweigh this conflict.

Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft. Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas. Point Clear is identified as a 'Village' within saved Policy QL1 of the adopted Tendring District Local Plan 2007 and is not even referenced within Policy SPL1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft June 2017 in recognition of its size and limited range of local services.

The proposal for relaxation of a planning condition to effectively give a change from a chalet with a limited period of occupancy to a dwelling with year-round use is contrary to the NPPF, Saved Policies QL1 and QL3 of the Tendring District Local Plan 2007 and Emerging policies SPL2 and PPL1 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017. The site is approximately half a mile outside of the Settlement Development Boundary for Point Clear in the saved local plan and several miles outside the settlement boundary for St Osyth in the draft emerging local plan and is therefore considered a part of the countryside.

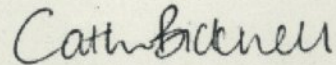
As identified in the Council's "Establishing a Settlement Hierarchy" study (April 2016), Point Clear has few facilities and services with no primary school, healthcare provision, defined areas of employment, defined village centre and no railway station. Whilst there is a bus stop approximately half a mile from the application site it remains likely that most journeys would be taken by private car and would therefore not be socially sustainable. Therefore, the proposal would not represent sustainable development and would thereby be contrary to the aforementioned policies. Furthermore, approval of this application

would very likely set a precedent which would make it more difficult for the Local Planning Authority to resist similar applications in this very large area of chalets which are not suitable for year-round use, exacerbating the harmful effect.

For the reasons set out above the proposal is considered to fail the social objective. This together with the conflict with Saved Policy QL1 of the adopted plan and emerging Policy SPL1 amounts to an unsustainable form of development.

DATED: 30th 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

EN1 Landscape Character

EN3 Coastal Protection Belt

EN6 Biodiversity

QL1 Spatial Strategy

QL3 Minimising and Managing Flood Risk

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

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.