



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT: Mr Peter Le Grys - Stanfords
The Livestock Market
Wyncolls Road
Colchester
CO4 9HU

APPLICANT: Mr N Neal and S Geisha
C/o Agent

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 19/00439/OUT **DATE REGISTERED:** 20th March 2019

Proposed Development and Location of Land:

**Hybrid application comprising of: Outline planning permission for five bespoke self-build/custom built dwellings; and Full planning permission for additional car park for the Two Village Primary School.
Land rear of Some View and Roborough Church Hill Ramsey Essex**

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

- 1 Paragraph 189 of the National Planning Policy Framework (2019) states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.

Paragraph 196 of the National Planning Policy Framework (2019) 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 including, where appropriate, securing its optimum viable use.

Policy EN23 of the Adopted Plan states that development within the proximity of a Listed Building that would adversely affect the setting of a Listed Building, including group value and long distance views, will not be permitted. The sentiments of this policy are carried forward within policy PPL9 of the Emerging Plan.

The application site forms part of the Grade I Listed St Michael's Church's setting and the undeveloped nature of the existing site contributes to the heritage asset's setting and significance. The development of this site, and the precedent it would set for similar forms of development adjacent, would erode the agrarian landscape in the immediate environs of the church, a setting which has been a situation likely since the church's construction 800 years ago and a rural setting which has a functional relationship with the heritage asset. As such the development of this site will cause harm to the setting and significance of a Grade I listed building, a designated heritage asset, while there are no significant public benefits as a result of five dwellings that can outweigh this identified harm.

Furthermore, a Heritage Statement which fully assesses the contribution that the site makes to the setting and significance of the Grade I Listed Building, in line with

Historic England Guidance The Setting of Heritage Assets, has not been provided.

The proposed development therefore fails to adhere to the wishes of the above national and local policies.

- 2 Paragraph 170 of the National Planning Policy Framework (2019) states planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and should protect and enhance valued landscapes.

Policy EN1 of the Saved Local Plan states the quality of the district's landscape and its distinctive local character will be protected and, where possible, enhanced. Any development which would significantly harm landscape character or quality will not be permitted. The sentiments of this policy are carried forward within Emerging Local Plan Policy PPL3.

The existing residential development adjacent to the north is in a linear pattern with a relatively strong building line. The proposed dwellings, which are to be sited to the rear of this development via a long and narrow drive, will appear incongruous and contrived in relation to the local surrounds.

Further, the site is in the brow of Church Hill, Ramsey which is part of the Oakley Ridge Landscape Character Area (LCA), adjacent to and overlooking the Ramsey Valley LCA. Views of the proposed dwellings would diminish the existing qualities of this local landscape character by way of intensification of the built environment. This, and the unwanted precedent it would set for future development adjacent to the east, south and west, would contribute to the gradual erosion of the countryside that would be to the significant detriment of visual amenity.

- 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 Hamford Water RAMSAR and SPA, 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 54 of 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. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

There is currently a deficit of -2.70 hectares of equipped play and -0.93 hectares of formal open space in Ramsey and Parkeston, with the nearest play areas to the development being Clayton Road approximately 0.5 miles away. Due to the lack of play facilities in Ramsey a contribution towards play and formal open space is justified and relevant to the application, with the contribution to be used to upgrade the play facilities in Clayton Road, Ramsey.

This application has not come with a correctly completed unilateral undertaking for a contribution towards play and formal open space facilities.

No such contribution has been included within this application nor has any justification for the lack of a contribution and therefore this scheme does not comply with Policy COM6.

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

- 5 Paragraph 196 of the National Planning Policy Framework (2019) 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 including, where appropriate, securing its optimum viable use.

Policy EN23 of the Adopted Plan states that development within the proximity of a Listed Building that would adversely affect the setting of a Listed Building, including group value and long distance views, will not be permitted. The sentiments of this policy are carried forward within policy PPL9 of the Emerging Plan.

The application site forms part of the Grade I Listed St Michael's Church's setting and the undeveloped nature of the existing site contributes to the heritage asset's setting and significance. The development of this site would erode the agrarian landscape in the immediate environs of the church, a setting which has been a situation likely since the church's construction 800 years ago and a rural setting which has a functional relationship with the heritage asset. As such the development of this site will cause harm to the setting and significance of a Grade I listed building, a designated heritage asset. The submitted information highlights that the nearby school (Two Villages Primary School) are experiencing difficulties with car parking provision, and that this proposal for 22 spaces will remedy this. However, no evidence has been supplied to demonstrate that the current parking provisions are not sufficient for the school in their existing form, and therefore this small public benefit does not outweigh the identified visual harm.

- 6 Paragraph 170 of the National Planning Policy Framework (2019) states planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and should protect and enhance valued landscapes.

Policy EN1 of the Saved Local Plan states the quality of the district's landscape and its distinctive local character will be protected and, where possible, enhanced. Any development which would significantly harm landscape character or quality will not be permitted. The sentiments of this policy are carried forward within Emerging Local Plan Policy PPL3.

The site in its current form is a large area of open undeveloped land, and is also in the brow of Church Hill, Ramsey which is part of the Oakley Ridge Landscape Character Area (LCA), adjacent to and overlooking the Ramsey Valley LCA. Given the sensitive and soft nature of the site, the proposed car park to accommodate 22 vehicles will appear prominent and out of character with the areas existing open agrarian landscape, to the serious visual detriment of the areas existing character.

DATED: 15th May 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

EN2 Local Green Gaps

EN6 Biodiversity

EN6A Protected Species

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

HG1 Housing Provision

HG9 Private Amenity Space

HG14 Side Isolation

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

- CP1 Sustainable Transport and Accessibility
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL6 Strategic Green Gaps
- PPL9 Listed Buildings
- SP1 Presumption in Favour of Sustainable Development
- SPL1 Managing Growth
- SPL3 Sustainable Design

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 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.