



TENDRING DISTRICT COUNCIL

Planning Services

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

APPLICANT: Miss Billie-Jo Hatcher
Two Rivers Preschool Ltd.
8 Launceston Close
Romford
Essex
RM3 8HQ

AGENT:

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 19/00355/FUL

DATE REGISTERED: 22nd March 2019

Proposed Development and Location of Land:

**Change of use from A1 (retail) to D1 (pre-school/nursery) and change parking area to garden area with 1.8 metre high fence around the two buildings and connecting doorway.
2 - 3 Midland House High Street Harwich**

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 85 of the National Planning Policy Framework (2019) states planning decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. It further states planning policies should define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations.

Policy ER33 of the Adopted Tendring Local Plan 2007 states that within an area identified as a Primary Shopping Frontage, proposals for a change of use from Class A1 shops to a non-retail use will not be permitted at ground floor level.

The application site lies within the Primary Shopping Frontage for Harwich within the Adopted Local Plan 2007, and accordingly fails to adhere to above local policy to the detriment of the vitality and viability of the town centre.

- 2 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 124 is to always seek to secure high quality design.

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The submitted plans show the erection of a 1.8m high metal fence to the perimeter of the site. Given that the site is positioned in a highly prominent corner location within the Harwich Town Centre, with no other similar examples of such fencing, it is considered this fencing will appear oppressive and out of character in this location, to the serious visual detriment of the areas existing character., and thereby fails to accord with the above national and local policies.

- 3 Paragraph 127 of the National Planning Policy Framework (2019) states planning decisions should ensure that developments will function well and add to the quality of the area, are sympathetic to local character and history, and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The site is located close to numerous residential properties including three flats above the proposed use. The proposed nursery would involve the employment of twelve members of staff, numerous comings and goings from the site including parents dropping off/picking up children and children playing in outside areas resulting in significant noise. A noise assessment has not been received and it has therefore not been demonstrated that the proposed development can be carried out without causing significant harm to the amenities of surrounding residential properties, and is therefore contrary to the above national and local policies.

- 4 Paragraph 109 of the National Planning Policy Framework (2019) states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy TR1a of the Adopted Local Plan 2007 states proposals for development affecting highways will be considered in relation to the road hierarchy to reducing and preventing hazards and inconvenience to traffic and to the effects on the transport system including the physical and environmental capacity to accommodate the traffic generated. Policy TR7 of the Adopted Local Plan 2007 states that for residential development within town centres and for all non-residential development, the adopted car parking standards will be applied.

Adopted Car Parking Standards state that for a D1 use, there should be minimum parking provision of one parking space per full time equivalent member of staff, and pick up/drop off facilities. The standards also state there should be minimum provision of two spaces measuring 5.5m x 2.9m for dwellings with two bedrooms or more.

There are to be an equivalent of 11 full time members of staff, requiring a minimum of 11 parking spaces measuring 5.5m x 2.9m and an area for pick up/drop off points. While there is an area to the south-eastern corner of the site to be used for pickups/drop offs, there is insufficient space to accommodate the necessary parking arrangements. The overall parking provision is therefore considered to be inadequate and would accordingly lead to additional vehicles being left parked within the adjoining and nearby streets causing conditions of danger, obstruction and congestion, contrary to the interests of highway safety.

Further, within planning permission 05/00865/FUL for three flats to the first floor of Midland House, three parking spaces were allocated to the hardstanding area to the western edge of the site. The introduction of the proposed fencing around the premises would remove this current parking arrangement, ensuring the occupiers of these properties will have no parking provision. Therefore the development would add to the existing parking stress in the area, causing conditions of congestion, danger and obstruction, contrary to the interests of highway safety.

DATED: 17th 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

ER31 Town Centre Hierarchy and Uses

ER33 Non-retail Uses Within Primary Shopping Frontages

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

PP2 Retail Hierarchy

PP5 Town Centre Uses

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

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.