



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT: Eric Przyjemski - DHA Planning
Eclipse House
Eclipse Park
Sittingbourne Road
Maidstone
ME14 3EN

APPLICANT: Mr Simon Patience / Simon Patience New Homes Ltd
C/o Agent

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 19/00376/FUL **DATE REGISTERED:** 7th March 2019

Proposed Development and Location of Land:

Variation of condition 16 (approved plans) and removal of conditions 2 (materials of shop/office) and 6 (use of shop/office) of approved application 18/01864/FUL for the change of use of unit 3 from residential/commercial use to residential use only.

Former Forbourn Motors High Street Thorpe Le Soken 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 85 of the National Planning Policy Framework (2019) states planning policies and 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.

Policy ER3 of the Adopted Tendring Local Plan 2007 states that land in, or allocated for employment use will normally be retained for that purpose, and its change of use will only be permitted if the applicant can demonstrate that it is no longer viable or suitable for any form of employment use. Within this, the applicant should either submit evidence of a sustained but ultimately unsuccessful marketing exercise, undertaken at a realistic asking price or demonstrate that the land is inherently unsuitable and/or not viable or suitable for any form of employment use.

The proposal will result in the loss of a town centre employment use within a town centre location. The proposal will see the change of use of an existing A1/A2/B1a use to a C3 residential use.

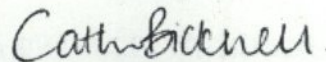
The submitted information shows the site has been marketed at prices of £150,000 and £145,000 (or £15,000 to rent per annum), which are far in excess of what would be expected of a unit of this size in this location. As an example, a retail shop within the High Street in Thorpe-le-Soken of an approximate size is currently available to rent at £6,000 per year. A larger site within the High Street in Walton-on-the-Naze is available to rent for £6,240 per year, and within Appendix 5 of the information supplied by the applicant are other examples of similar sized units at reduced prices; notably 29-31 High Street, Clacton-on-Sea at £11,500 per annum, 74 High Street, Clacton-on-Sea at £89,995 and 204 Frinton Road, Holland-on-Sea at £13,000 per annum. Further, the site

has not been open and available for the large majority of the time being marketed, with the site being covered up for large periods of this time, thereby reducing the attractiveness of the site to potential buyers. Moreover, the information supplied does not show that the site has been locally marketed for a sufficient amount of time, while the submitted information also states offers were made to purchase the site but does not disclose any further information, while full details of prospective buyers and the individual reasons for why the sale did not progress have not been provided.

It is therefore considered that the information supplied has failed to demonstrate that the site has been marketed at a realistic asking price and has failed to demonstrate the site is inherently unsuitable or not viable for any form of employment use. The proposal therefore fails to accord with the above national and local policies.

DATED: 4th June 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
- COM6 Provision of Recreational Open Space for New Residential Development
- EN6 Biodiversity
- EN6A Protected Species
- EN17 Conservation Areas
- EN23 Development Within the Proximity of a Listed Building
- ER3 Protection of Employment Land
- HG1 Housing Provision
- HG3 Residential Development Within Defined Settlements
- HG6 Dwelling Size and Type
- HG7 Residential Densities
- 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

PPL4 Biodiversity and Geodiversity

PPL8 Conservation Areas

PPL9 Listed Buildings

SP1 Presumption in Favour of Sustainable Development

SP2 Spatial Strategy for North Essex

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.