



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT: Mr James Firth - Strutt and
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Rainsford Road
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APPLICANT: City & Country
C/O Agent

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 19/00562/OUT **DATE REGISTERED:** 8th April 2019

Proposed Development and Location of Land:

**Outline application with all matters reserved other than strategic access point onto the public highway, for the erection of up to 75 dwellings with associated landscaping, public open space and infrastructure.
Land to The West of Plough Road Great Bentley Essex**

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

- 1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The application site is not allocated for any form of development in the Tendring District Local Plan (2007) (the 'adopted Local Plan') and falls outside of the defined settlement development boundary for Great Bentley. Outside of the settlement development boundaries, Policy QL1 of the adopted Local Plan states that only development which is consistent with countryside policies will be permitted. The development of up to 75 dwellings on this land does not therefore accord with the development plan.

The site also falls outside of the proposed settlement development boundary for Great Bentley as defined in the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (the 'emerging Local Plan'). Policy SPL2 in the emerging Local Plan states that planning permission for development outside of the settlement boundaries should be refused unless a site is allocated for a specific form of development or it meets specific criteria within that policy. The development of up to 75 dwellings on this land is also contrary to the emerging Local Plan.

The National Planning Policy Framework (2019), at its heart, promotes a presumption in favour of sustainable development that performs an economic, social and environmental role. Where local planning authorities are unable to identify a five year supply of deliverable housing sites against objectively assessed future needs, plus an appropriate buffer, policies relating to housing supply are considered out of date and the presumption in favour of sustainable development applies, requiring planning permission to be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

At the time of this decision, 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.

Officers consider that the emerging Local Plan is progressing well, the core planning principles under paragraph 15 of the National Planning Policy Framework (NPPF) that development should be genuinely plan-led apply and the Council should actively manage patterns of growth is therefore awarded significant weight. As such therefore it is considered that further development in this location would be contrary to Saved Policy QL1 and Draft Policy SPL2.

The social role of sustainable development, as set out in the National Planning Policy Framework (2019), promotes the creation of high quality built environments, with accessible local services that reflect the community's needs and support its health, social and cultural well-being. One of the core planning principles of the Framework is to actively manage patterns of growth to make the fullest use of public transport, walking and cycling, and to focus significant development in locations which are or can be made sustainable. Policy QL1 in the adopted Local Plan and Policy SPL1 in the emerging Local Plan support these principles by setting out a spatial strategy, underpinned by a hierarchy of settlements that seeks to focus new development on larger towns and villages which offer the greatest range of jobs, shops, services and facilities.

The settlement of Great Bentley is defined as a 'village' in the adopted Local Plan and as a 'rural service centre' in the emerging Local Plan. The emerging Local Plan promotes housing development in the district's rural service centres at a level that is fair, achievable and sustainable and that will make a meaningful contribution towards addressing local housing needs whilst supporting the village economy and assisting with the overall housing growth proposed for the district. In comparison, urban settlements further up the settlement hierarchy are expected to accommodate the majority of the district's future housing growth.

At the time of the decision, large sites on the edge of Great Bentley had already obtained planning permissions to deliver a total of up to 250 dwellings, representing an approximate 35% increase in the village's housing stock. For the proposed plan period to 2033, Great Bentley is therefore already expected to accommodate a greater level of housing development than envisaged in the emerging Local Plan. When considered in relation to the objectively assessed housing need for Tendring, further development around Great Bentley will bring about a highly disproportionate level of growth for the village, which runs contrary to the core principle of the National Planning Policy Framework to actively manage sustainable patterns of growth, and the thrust of the spatial strategy in both the adopted and emerging Local Plans.

Further to this, the cumulative adverse impacts of unrestricted development around the village will include the unnecessary and permanent loss of productive agricultural land, increased traffic, visual impact on landscape setting of the village and increased pressure on local services - all of which will impact upon the character and enjoyment of the village.

The proposal is contrary to the adopted and emerging Local Plan, would conflict with, and undermine, the core planning principle to make fullest use of public transport, walking and cycling as set out in the National Planning Policy Framework and the cumulative impact of continued development would erode the character and enjoyment of Great Bentley. These adverse effects would significantly and demonstrably outweigh the limited benefit of up to 75 additional dwellings, given that the Council is close to identifying a five year supply of housing and the new Local Plan is progressing positively through the plan-making process. The proposal therefore does not constitute sustainable development.

- 2 The landscape is of medium character. While it is relatively featureless, the flat, open landscape of the plateau edge allows long panoramic views of the village in its countryside setting, particularly from the approach on Plough Road and the public footpath to the south. The site, as a characteristic part of the heathland plateau landscape, makes an important contribution to the rural setting of the village. Its openness means that it cannot accommodate development without undue harm to the landscape, making the site fairly susceptible to development. Although the application includes proposals for extensive planting on the western and southern boundaries, the development of this site with up to 75 dwellings would result in the loss of an attractive area of open countryside, adversely affecting the character and setting of the village. This would undermine the distinctive identity of the settlement and would not conserve or enhance the rural character of the landscape. The Council, therefore, find in this case that, in conflict with adopted Local Plan Policy EN1 and emerging Policy PPL3 the proposed development would have a moderately harmful impact on the rural landscape setting of the village.
- 3 The National Planning Policy Framework (2019) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be sought where they meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

Saved Policy HG4 of the Tendring District Local Plan (2007) requires up to 40% of new dwellings on residential schemes of 5 or more units to be provided in the form of affordable housing to meet the needs of people that are unable to access property on the open market. Emerging Policy LP5 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017), which is based on more up-to-date evidence of housing need and viability, requires for developments of 10 or more dwellings, the Council expect 30% of new dwellings to be made available to Tendring District Council or an alternative provider to acquire at a discounted value for use as affordable housing, or as an alternative, the Council will accept a minimum of 10% if new dwellings are to be made available alongside a financial contribution toward the construction or acquisition of property for use as affordable housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement. A completed Section 106 has not been provided prior to the application determination date and the application is therefore contrary to the above policy.

Saved Policy COM26 of the Tendring District Local Plan states where necessary planning permission will only be granted for residential developments of 12 or more dwellings if land and/or financial contributions are made to provide the additional school places that will be needed to service the development. Emerging Policy PP12 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) states planning permission will not be granted for new residential development unless the individual or cumulative impacts of development on education provision can be addressed, at the developer's cost, either on-site or through financial contributions towards off-site improvements. Essex County Council Education Services have identified the need for financial contributions toward early years and childcare, primary and secondary education provision and school transport. A completed Section 106 obligation to secure these contributions has not been provided prior to the application determination date and the application is therefore contrary to the above policies.

Policies within Chapter 6 of the adopted Local Plan and Policy PPL4 of the emerging Local Plan seek to ensure that where development is likely to harm nature conservation or geo-diversity interests, planning permission will only be granted in exceptional circumstances, where the benefits of the development shall outweigh the harm caused and where appropriate mitigation measures must be included in the

development to the satisfaction of Natural England and other appropriate authorities.

Saved Policy COM6 and emerging Policy HP5 state that for residential development on a site of 1.5ha and above, where existing public open space and/or play equipment are inadequate shall provide appropriate provision on-site or by way of a financial contribution towards the provision of new or improved off-site facilities to meet the projected needs of future occupiers of the development. In this case there is likely to be sufficient on-site open space provision to meet the Council's requirements. However, there will also be a need to provide on-site play provision and if the open space and play provision is to be maintained by the Council then provisions will need to be secured through a Section 106 obligation. Without such provisions being secured the proposals are contrary to the above policies.

A completed Section 106 obligation to secure the relevant contributions towards education, RAMS, open space/play space and affordable housing has not been provided and is therefore contrary to the above policies.

DATED: 31st July 2019

SIGNED:

Catherine Bicknell

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

QL1 Spatial Strategy

QL2 Promoting Transport Choice

QL3 Minimising and Managing Flood Risk

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG3A Mixed Communities

HG4 Affordable Housing in New Developments

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

COM2 Community Safety

COM6 Provision of Recreational Open Space for New Residential Development

COM21 Light Pollution

COM23 General Pollution

COM26 Contributions to Education Provision

COM29 Utilities

COM31A Sewerage and Sewage Disposal

EN1 Landscape Character

EN4 Protection of the Best and Most Versatile Agricultural Land

EN6 Biodiversity

EN6A Protected Species

EN12 Design and Access Statements

TR1A Development Affecting Highways

TR3A Provision for Walking

TR4 Safeguarding and Improving Public Rights of Way

TR5 Provision for Cycling

TR6 Provision for Public Transport Use

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SP5 Infrastructure & Connectivity

SP6 Place-Shaping Principles

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP1 Improving Health and Wellbeing

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP5 Affordable and Council Housing
- PP12 Improving Education and Skills
- PPL1 Development and Flood Risk
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL7 Archaeology
- CP1 Sustainable Transport and Accessibility
- CP3 Improving the Telecommunications Network

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

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.
- If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

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.