



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT: Mr Tony Osbourn - Eastern
Square
The Colchester Centre
Hawkins Road
Hythe Quay
Colchester
Essex
CO2 8JX

APPLICANT: Flying Trade Ltd

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 19/00397/FUL

DATE REGISTERED: 16th May 2019

Proposed Development and Location of Land:

**Variation of conditions 5) 24hr movements required, 7 days a week and 6) 24hr unloading/loading required 7 days a week and removal of condition 1) to Planning Application 07/00838/FUL.
3A Europa Way Ramsey Harwich Essex**

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 Given the relationship of the site to adjoining residential properties to the north, it was previously considered that the proposal had the potential to give rise to harmful impacts on the amenity of residents through noise and disturbance, loss of privacy and overall loss of amenity. As a consequence of this a series of Conditions were attached to the granting of planning permission 07/00838/FUL so as to mitigate against the noise impacts of the development (namely conditions 1, 5 and 6).

To vary these Conditions would be contrary to guidance as given by Policies COM20, COM22 and COM23 of the Local Plan which seeks to control and resist sensitive proposals located near housing unless mitigated measures are proposed which adequately mitigate against the adverse effect of pollution at all times.

Whilst the current development itself is not incompatible with the surrounding land uses, the noise impacts likely to arise during the proposed 24 hour, 7 day a week, operation has the potential to cause adverse impacts on residential amenity.

The application is therefore recommended for Refusal.

DATED: 15th August 2019

SIGNED:

Catherine Bicknell

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

ER1 Employment Sites

ER2 Principal Business and Industrial Areas

ER3 Protection of Employment Land

COM20 Air Pollution/ Air Quality

COM22 Noise Pollution

COM23 General Pollution

QL11 Environmental Impacts and Compatibility of Uses

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

SP4 Providing for Employment & Retail

PP6 Employment Sites

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.