



## 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 and Mrs Bradshaw  
C/o Agent

#### TOWN AND COUNTRY PLANNING ACT 1990

**APPLICATION NO:** 19/01096/FUL      **DATE REGISTERED:** 7th August 2019

Proposed Development and Location of Land:

**Proposed demolition of former pizza parlour building and replacement with a one bed dwelling and boundary wall.  
Rear of The Oaks 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 8 of the National Planning Policy Framework 2019 (NPPF) sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes onto say that local distinctiveness should be promoted and reinforced.

Furthermore, Paragraph 184 of the NPPF states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Specifically Paragraph 196 of the NPPF 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.

The site is located within the Thorpe Le Soken Conservation Area. Saved Policy EN17 of the adopted Tendring District Local Plan (2007) states that development within a Conservation Area must preserve or enhance the character or appearance of the Conservation Area. Furthermore, Saved Policy EN23 of the adopted Tendring District Local Plan (2007) states that proposals for development that would adversely affect the setting of a listed building will not be permitted. The sentiments of these policies are carried forward in Draft Policies PPL8 and PPL9 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

In addition, Saved Policy HG14 of the adopted Tendring District Local Plan (2007) states that proposals for new dwellings will be required to retain appropriate open space between the dwelling and the side boundaries of the plot to ensure that new

development is appropriate in its setting and does not create a cramped appearance. As a guideline, a minimum distance of 1 metre will be sought and where circumstances warrant it, a greater distance will be expected.

Whilst the existing pizza parlour may be considered unsympathetic to the conservation area, being a low quality modern structure, the residential development of the plot is seen to cause detriment to the significance of The Oaks, as cartographic evidence suggests the land has been associated with the listed building, forming part of its domestic curtilage, since at least the 19th century. Being a modest plot, its division and subsequent development is considered to overcrowd the site, to the detriment of the appreciation of historic structures. The private amenity space for both the host property and new dwelling fall short of the minimum standards. The parking provision and bay sizes fall short of the minimum standards. The footprint and siting of the dwelling provides no side isolation.

Further to this, the proposed height of the new dwelling, being a two storey structure, is seen to rise above the ridge line of the historic rear extensions to The Oaks, dominating the rear aspect of the listed building to an unacceptable degree. The design also incorporates an excessive number of rooflights, where these are generally considered inappropriate within a conservation area and detract from its traditional appearance. The prominence of the building and associated visual harm would be further exacerbated by the use of black weatherboarding and blue black slate roof tiles appearing as a stark and out of character addition within the immediate locality which is predominately characterised by red brick and light coloured rendered buildings.

The proposed development by virtue of its height, cramped layout, design and materials would fail to preserve or enhance the conservation area and would be harmful to the setting of the listed building failing to respond to local character and history. The benefits that arise from the loss of the unsympathetic structure and creation of 1 new dwelling do not outweigh the identified harm. The proposal is therefore considered contrary to the aims and aspirations of the aforementioned national and local plan policies.

- 2 The National Planning Policy Framework 2019 (NPPF) at paragraph 127 states that planning decisions should ensure that developments will function well and add to the overall quality of the area. Furthermore, Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users.

Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Furthermore, the adopted Essex County Council Parking Standards 2009 set out the requirements for residential development. A 1 bedroom dwelling requires 1 parking space and a property of 2 or more bedrooms require 2 parking spaces. The preferred vehicle parking bay sizes are set out in paragraph 3.2.1 of the standards stating that each space should be 5.5m x 2.9m with parallel parking bay length being 6.0m. Paragraph 3.2.7 goes on to say that parking areas that are adjacent to solid structures such as a wall or fence should increase the width of these bays by 1m to allow for improved manoeuvrability and entry/exit of people to/from the vehicle.

In this instance, no parking or secure cycle storage is provided for the new dwelling. Furthermore, the parking bays to serve the host dwelling are positioned between the

boundary wall and wall and boundary of the new dwelling and fail to meet the increased width or length size required by the parking standards in such layouts.

The tandem parking arrangement for The Oaks has not been provided with appropriate visibility splays to the Mill Lane carriageway. The proposed boundary wall obstructs visibility to vehicles approaching from the northeast, from the High Street junction. The lack of suitable visibility from the proposed access for both emerging and approaching vehicles would result in an unacceptable degree of hazard to emerging and approaching vehicles and all highway users to the detriment of general highway safety.

Due to the width constraint of the development site and Mill Lane carriageway there is insufficient land available to provide the recommended 6 metre aisle manoeuvring space. An aisle space of only 4.7 metres is provided. This will make it difficult for vehicles to access the car parking spaces likely requiring multiple manoeuvres.

Therefore, the layout is cramped and fails to provide appropriate visibility and manoeuvring space compromising the ease of access and manoeuvrability for the occupants of the development. Furthermore, the proposal provides insufficient off-street parking, which would lead to displacement onto the surrounding highway, resulting in an adverse impact on highway safety.

The development would not function well, failing to contribute positively to making the place better, contrary to the above national and local plan policies.

- 3 Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Saved Policy QL10 of the adopted Tendring District Local Plan (2007) requires that all new development should meet functional requirements. In particular the policy states that planning permission will only be granted if buildings and structures are orientated to ensure adequate daylight, outlook and privacy and provision is made for functional needs including private amenity space. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives.

Additionally, Saved Policy HG9 sets out the minimum standards for private amenity space.

Historic records show that the host property accommodates in excess of 3 bedrooms therefore requiring a minimum garden area of 100 square metres in accordance with Saved Policy HG9 of the adopted plan. The proposed dwelling serves 1 bedroom requiring a minimum of 50 square metres to accord with policy. The donor dwelling retains 95 square metres and the proposed dwelling would be served by a private amenity area of 35 square metres both failing to meet the minimum standards further demonstrating the cramped and over-developed form of the proposal. The shortfall of 5 square metres in garden space serving the host property cannot be considered significantly harmful as to warrant refusal of planning permission on this ground alone.

However, in this instance the proposed new dwelling is not considered to accord with the aforementioned aspirations of national and local plan policy as it fails to provide a well-designed dwelling with a good standard of amenity. The dwelling would be served by an undersized garden almost fully overshadowed by the dwelling itself due to the height of the property, depth and orientation of the garden. The undersized garden would feel dark and cramped, with the dwelling itself dominating the space. Therefore, the development fails to meet the functional needs of occupants to the detriment of their residential amenity.

- 4 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.

The application scheme proposes a dwelling on a site that lies within the Zone of Influence (Zoi) being approximately 2000 metres from Hamford Water SPA and Ramsar. Since the development is for one dwelling only, the number of additional recreational visitors would be limited and the likely effects on Hamford Water SPA and Ramsar site from the proposed development alone may not be significant. However, new housing development within the Zoi would be likely to increase the number of recreational visitors to Hamford Water SPA and Hamford Water Ramsar site; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured 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.

DATED: 2nd October 2019

SIGNED:

*Catherine Bicknell*

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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

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN17 Conservation Areas

EN23 Development Within the Proximity of a Listed Building

EN11A Protection of International Sites European Sites and RAMSAR Sites

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

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

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Conservation Area Character Appraisals

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 Agent. 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.

Highways Informatives

Mill Lane is a Public Right of Way Footpath no. 11 Parish of Thorpe Le Soken 180 with vehicular access rights over it. The proposed boundary wall cannot be permitted as it encroaches to the Public Right of Way Footpath no. 11 Parish of Thorpe Le Soken 180, historic footpath width. The Highway Authority will protect the principle use of the highway as a right of free and safe passage of all highway users and safeguard the existing network of Definitive Public Rights of Way where affected by development, ensuring that it remains protected and open for use by the public and having regard to the Department for Environment, Food and Rural Affairs Circular 1/09, or its subsequent replacement.

**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](mailto: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.