

DELEGATED DECISION OFFICER REPORT

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Application: 19/01096/FUL

Town / Parish: Thorpe Le Soken Parish Council

Applicant: Mr and Mrs Bradshaw

Address: Rear of The Oaks High Street Thorpe Le Soken

Development: Proposed demolition of former pizza parlour building and replacement with a one bed dwelling and boundary wall.

1. Town / Parish Council

Thorpe Le Soken Parish Council

Recommendation: No Objection

2. Consultation Responses

ECC Highways Dept

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

The Highway Authority will protect the principle use of the highway as a right of free and safe passage of all highway users. As far as can be determined from the submitted plans:

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

2. The parking provision layout design is considered to be inadequate for the dwelling "The Oaks" as proposed.

3. 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 proposal is therefore contrary to policy DM1, DM8 and DM11 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Notes

1. Visibility to the proposed vehicular access and 2 car tandem parking space for "The Oaks":

i. The proposed boundary wall obstructs visibility to vehicles approaching from the northeast, from the High Street junction. A minor or "X" distance of only 0.7 metres is provided. This would result in an unacceptable degree of hazard to emerging and approaching vehicles and all highway users to the detriment of general highway safety.

ii. The existing building (which would be demolished) abuts to the Public Right of Way footpath/carriageway edge. The proposed building is set back just over 2.7 metres from the point. The tandem parking space is therefore provided with appropriate minor or "X" distance visibility to vehicles approaching from the southwest along Mill Lane.

2. The EPOA and Chelmsford City Parking Standards recommend in the EPOA Parking Standards Design and Good Practice September 2009 recommends that dwellings with 2 bedrooms or more are provided with not less than 2 off-street parking spaces and that the parking layout includes provision of a 6 metre aisle space to enable manoeuvres to and from the parking spaces. Notwithstanding that "The Oaks" is provided with 2 off-street parking spaces in a tandem parking arrangement in a, 2 car tandem car parking arrangement, 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.

3. Mill Lane is a Public Right of Way Footpath no. 11 Parish of Thorpe Le Soken 180 with vehicular access right over it. The extent of the Publicly Maintainable Highway should be checked to ensure the proposed boundary wall does not encroach onto the historic footpath width.

Essex County Council
Heritage

The application is for the demolition of former pizza parlour building and replacement with a one bed dwelling and boundary wall.

The above concerns land rear of The Oaks, a Grade II listed (HE Ref: 1147697) building. The application site is located within the Thorpe le Soken Conservation Area.

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. 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.

For the above, the proposed scheme is considered to cause "less than substantial" harm to the significance of a listed building and the conservation area (both designated heritage assets), where paragraph 196 of the NPPF is relevant.

3. Planning History

93/01132/FUL	(Land rear of The Oaks Restaurant, High Street Thorpe le Soken) Continued use of land for preparation and retail sale of food (Renewal of Planning Permission TEN/0835/90)	Approved	08.12.1993
06/01773/FUL	Change of use from A3 (restaurant) to a mixed use comprising A3 (restaurant) and A5 (take-aways).	Approved	04.01.2007
12/01029/FUL	Change of use to residential and erection of boundary wall.	Approved	17.05.2013
14/30232/PREAPP	Conversion of Grade II Listed Building property into 2 dwellings.	Approved	
19/01097/LBC	Proposed boundary wall.	Approved	17.09.2019

4. Relevant Policies / Government Guidance

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

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to

address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. 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. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application relates to the former Prince of India Restaurant (use ceased February 2012) now a residential dwelling known as 'The Oaks' and the land and former pizza parlour building to the rear of the property. The site is located on the corner of the junction of the High Street and Mill Lane. The Oaks fronts the High Street and the rear of the site is accessed via Mill Lane.

The Oaks is a Grade II Listed Building and lies within the Thorpe Le Soken Conservation Area, Local Centre Boundary and Settlement Development Boundary.

There is a related Listed Building Consent application for the erection of the boundary wall under reference 19/01097/LBC. This was approved on 17th September 2019.

Description of Proposal

The application seeks full planning permission and conservation area consent for the demolition of the former pizza parlour building (in excess of 115sqm) to the rear of The Oaks and its replacement with a one bedroom detached, 2 storey dwelling with a rear yard area of 35 square metres and no parking provision.

The proposed building measures 8 metres in width and 5 metres in depth with a pitched roof height of approximately 7.2 metres (eaves height of 4.5 metres) finished in black weather boarding to all elevations and blue black slate roof tiles.

This application also seeks planning permission for the erection of the boundary wall along the side and rear boundaries of The Oaks and the formation of 2 tandem parking spaces to serve the host property.

Assessment

The main considerations in this instance are;

- Planning History;
- Principle of Residential Development;
- Design and Impact (including Impact Upon the Heritage Assets);
- Access and Parking;
- Residential Amenities;
- Financial Contributions – RAMS;
- Financial Contributions – Open Space and Play Space; and,
- Representations;

Planning and Site History

The site is subject of previously approved application 12/01029/FUL granted on 17th May 2013 for the 'Change of use to residential and erection of boundary wall'. This proposal included the demolition of the existing outbuilding to which this current application now relates.

As a material operation (in this case the change of use of the land from a mixed use comprising A3 (restaurant) and A5 (take-away) to residential has taken place within the 3 year time limit stipulated in the full planning permission 12/01029/FUL, the LPA consider the planning permission has been lawfully implemented. Officers consider that the conditions attached to this planning permission therefore remain to be complied with. These conditions include;

2. Development to be in accordance with approved plans.
3. Submission and approval of materials.
5. Parking to be provided prior to occupation and retained.
6. Access provided prior to occupation.
7. Boundary wall provided prior to occupation and retained.

The parking and wall are shown located within the footprint of the outbuilding on approved plan number DRG No. 121. PJ.

This matter is subject of a separate investigation by the Council's Planning Enforcement and Compliance Department.

Principle of Residential Development

The site is situated within the Thorpe Le Soken Settlement Development Boundary (SDB) as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Policy HG3 of the adopted Tendring District Local Plan 2007 states that within defined development boundaries of towns and villages, residential development will be permitted provided it satisfies amenity, design and highway safety criteria, as appropriate, and can take place without material harm to the character of the local area including the impact upon heritage assets. Policy SPL2 within the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 is the equivalent policy and therefore echoes the aims of Policy HG3.

The principle of the residential development on the site is therefore acceptable in principle subject to further assessment of the development against other relevant national and local plan policies as detailed below.

Design and Impact (including Impact upon the Heritage Assets)

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 on to 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.

The development will result in the demolition of the existing former pizza parlour building which does not contribute positively to the conservation area or setting of the listed building due to its poor design, poor construction and unsympathetic bulk, scale and siting. There can be no objection to its demolition as previously addressed and agreed under planning application 12/01029/FUL.

The application seeks permission for the erection of a 2 storey building with an approximate footprint of 40 square metres which will accommodate a 1 one bedroom dwelling (kitchen, living and WC on ground floor and bedroom and bathroom at first floor). The application also proposes the creation of 2 parking spaces (in a tandem arrangement) to serve the host property together with a boundary wall to enclose its rear garden. The height and design of the boundary wall itself is not considered harmful to the setting of the listed building or conservation area. Listed building consent has been granted (due to its connection to the rear wall of The Oaks) under reference number 19/01097/LBC.

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.

Access and Parking

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 a 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 is provided for the new dwelling. The proposal is for a single 1 bedroom dwelling within close proximity to the High Street, an array of nearby amenities and public transport links. In isolation, the lack of parking to serve a single 1 bed dwelling in a town centre location is not considered significantly harmful. However, no cycle storage provision is proposed with no opportunity to provide such secure storage within the already undersized garden. Furthermore, the parking bays to serve the host dwelling are positioned between the boundary wall and wall and boundary of the new dwelling. These spaces do not meet the increased width or length size required by the parking standards in such layouts.

The proposal for 1 no. 1 bedroom dwelling will result in inconsequential additional traffic movements on Mill Lane and cannot be considered to result in any significant adverse impact on the highway network or highway safety in terms of access via Mill Lane.

However, the lack of parking and cycle storage for the new dwelling and use of undersized parking bays for the host property is considered to amount to cumulative harm that warrants refusal.

Essex County Council Highway Authority recommend refusal on the following grounds;

- The tandem parking arrangement for "The Oaks" has not been provided with appropriate visibility splays to 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.
- The parking provision layout design is considered to be inadequate for the dwelling "The Oaks" as proposed. The EPOA and Chelmsford City Parking Standards recommend in the EPOA Parking Standards Design and Good Practice September 2009 recommends that dwellings with 2 bedrooms or more are provided with not less than 2 off-street parking spaces and that the parking layout includes provision of a 6 metre aisle space to enable manoeuvres to and from the parking spaces. Notwithstanding that "The Oaks" is provided with 2 off-street parking spaces in a tandem parking arrangement in a, 2 car tandem car parking arrangement, 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 to 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.

Residential Amenities

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.

Furthermore, 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 safeguard the amenities and aspect of adjoining residents.

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

The proposed dwelling includes a side facing 1st floor window in both side elevations; 1 conservation roof light to the front roof slope and 4 conservation roof lights to the rear roof slope. The first floor north side facing window serves the stairway and landing area and the south side facing window serves the bedroom. The landing window will directly overlook the garden of the host dwelling with some obliquely angled views toward the rear of the adjacent property adjoining The Oaks. This window serves a stair way and landing minimising any overlooking. Furthermore, a condition could be imposed to obscure glaze the window to avoid any loss of privacy. The south facing side window serves a bedroom only and not a main living area which again will not result in any significant overlooking. Views from this window would be toward to frontage of the adjacent dwelling and not toward any private amenity areas. Again, an obscure glazing condition could overcome any loss of privacy or overlooking issues. Due to the small size and high level position of the rooflights, no overlooking or loss of privacy will result to neighbouring dwellings. The separation distance to neighbouring gardens and windows ensures that no material loss of sunlight or daylight will result from the development.

Overall, the proposed development will not result in a harmful impact on the residential amenities of the occupants of neighbouring properties.

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.

Financial Contributions - Essex Coast Recreational disturbance Avoidance and Mitigation Strategy
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.

The draft Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document 2019 (draft RAMS SPD) sets out a strategic approach to mitigation by several councils across Essex. The draft RAMS SPD sets out detailed mitigation measures that would be funded by S106 contributions at a specified tariff per dwelling.

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.

Financial Contributions – Open Space and Play Space

The Council's Open Space Team has been consulted in accordance with the requirements of Saved Policy COM6 of the adopted Tendring District Local Plan and Draft Policy HP5 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Due to the scale of the accommodation it is unlikely that the development will impact existing facilities. Therefore, no contribution is sought in this instance.

Representations

Thorpe Le Soken Parish Council raise no objection to the application.

2 individual letters of objection have been received. The concerns raised can be summarised and addressed as follows;

- Unsuitable over-development.
- Harmful to listed building and conservation area.
The design and impact have been addressed in the main report above.
- Non-compliance with previous planning conditions.
This is addressed in the main report above.
- Inadequate parking provision.
- Exacerbate congestion issues.
Access and Parking is addressed in the main report above.
- No land contamination report.

The site is not situated within an area identified for potential contamination issues. Such a report is not a requirement for this application.

- Loss of light and privacy.
Residential Amenities is addressed in the main report above.

Conclusion

For the reasons set out above, the harm to the heritage assets, poor residential amenities and the absence of a proportionate financial contribution in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements warrant refusal of planning permission.

6. Recommendation

Refusal - Full

7. Reasons for Refusal

- 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 on to 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.

8. Informatives

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.