



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT:	Mrs Emma Walker Phase 2 Planning & Development Ltd 250 Avenue West Skyline 120 Great Notley Braintree CM77 7AA	APPLICANT:	Mr S Williams Grange Marsh Properties Ltd Bridge Mill House Brook Street Colchester CO1 2UZ
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TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 19/01031/OUT **DATE REGISTERED:** 18th July 2019

Proposed Development and Location of Land:

**Demolition of existing bungalow and erection of up to nine dwellings and associated garaging.
Grange Farm Bungalow Clacton Road Elmstead Clacton On Sea**

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 Paragraph 63 of the NPPF (2019) states provision of affordable housing should be sought for residential developments that are major developments. Within the glossary of the NPPF (2019), major development is defined as development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.

It is considered that this application, and those previously approved under planning references 16/00724/OUT, 16/02004/DETAIL and 17/01617/OUT constitute a sub-division of a single site and therefore result in a total of 15 units. The above policy is therefore applicable and therefore there is a need to provide for affordable housing through a s106 legal agreement.

A completed Section 106 obligation to secure the affordable housing contribution has not been provided prior to the application determination date and the application is therefore contrary to the above policy.

- 2 Paragraph 54 of 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. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

There is currently a deficit of 4.51 hectares of equipped play in Elmstead, with the

nearest play area located on Old School Lane. The play area is classified as a Local Equipped Area for Play and provides facilities for various age groups. As this is the only play area in Elmstead it is already well used and further development in the village will put added pressure on the facility.

A contribution towards the improvements at the only play area in Elmstead Market is both relevant and justified to this planning application, with improvements to be made at the play area in Old School Lane. This play area has recently been refurbished but to cope with any additional development this will still be in need of continued improvements, and therefore a contribution is both relevant and justified.

No such contribution has been included within this application nor has any justification for the lack of a contribution and therefore this scheme does not comply with Policy COM6.

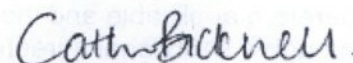
- 3 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) in particular the Colne Estuary Ramsar and SPA site, mitigation measures will need to be in place 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: 16th October 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

EN1 Landscape Character

- EN6A Protected Species
 - EN11A Protection of International Sites European Sites and RAMSAR Sites
 - HG1 Housing Provision
 - 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)
- HP5 Open Space, Sports & Recreation Facilities
 - LP1 Housing Supply
 - LP3 Housing Density and Standards
 - LP4 Housing Layout
 - PPL3 The Rural Landscape
 - PPL4 Biodiversity and Geodiversity
 - SPL1 Managing Growth
 - 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.
- 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.