



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT: Mr Peter Johnson
The Johnson Dennehy Planning
Partnership
The Coach House
Beacon End House
London Road
Stanway
Colchester
CO3 0NY

APPLICANT: S Wright
C/O Agent

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 19/01377/FUL

DATE REGISTERED: 11th September 2019

Proposed Development and Location of Land:

**Erection of two detached properties with garaging, parking and turning facilities, and landscaping access from Bromley Road.
Land adjacent to Hammonds Farm Bromley Road Ardleigh Colchester**

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 The application site lies outside of a Settlement Development Boundary as defined within the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The National Planning Policy Framework 2019 (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 report, 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. There are therefore significant doubts about the validity or extent of any housing supply 'deficit', albeit the tilted balance applies. This minimises the reduction in weight to conflict with Policy QL1, as per the Hallam Land judgement, especially in view of the fact that the Council has considerably increased its housing delivery figures in recent years.

Whilst it is recognised that there would be conflict with Saved Policy QL1 and Emerging Policy SPL1 in terms of the site being sited outside the settlement development boundary, as stated above, in the context of the 5 year housing land supply paragraph 11 d) of the NPPF requires applications for housing development to be assessed on their merits, whether sites are allocated for development in the Local Plan or not and it is important to consider whether any circumstances outweigh this conflict.

Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft. Emerging Policy SPL1 of the Publication Draft of the Local Plan 2017 includes a 'settlement hierarchy' aimed at categorising the district's towns and villages and providing a framework for directing development toward the most sustainable locations. This is the emerging policy equivalent to Saved Policy QL1 of the adopted Tendring District Local Plan 2007 which states that development should be focussed towards the larger urban areas. Thorrington is identified as a 'Village' within saved Policy QL1 of the adopted Tendring District Local Plan 2007 and is defined as a 'Smaller Rural Settlement' within Policy SPL1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft June 2017 in recognition of its size and limited range of local services.

Ardleigh is categorised in emerging Policy SPL1, along with seventeen other villages, as a 'Smaller Rural Settlement' in recognition of its size and relatively small range of local services. Ardleigh and other smaller villages are considered to be the least sustainable settlements for growth and development should normally be restricted to small-scale development only, respecting the existing character and form of the village. The nearest services and facilities are located within the Greenstead Estate. However, this would require a walk along Bromley Road, which is devoid of pavements and is reasonably straight with apparently high vehicle speeds. As such, it is not a route along which pedestrians should be encouraged to travel frequently. As such the location is considered to be amongst one of the least sustainable locations for growth where development will only serve to increase the number of people having to rely on cars to go about their everyday lives failing to meet the socially sustainable strand of sustainability.

For the reasons set out above the proposal is considered to fail the social objective. This together with the conflict with Saved Policy QL1 of the adopted plan and emerging Policy SPL1 amounts to an unsustainable form of development.

- 2 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, in indivisible from good planning, and should contribute positively to making places better for people. Paragraph 127 of The National Planning Policy Framework (2019) states that planning policies and decisions should ensure developments will add to the overall quality of the area, are visually attractive and are sympathetic to local character and history.

Policy QL9 and EN1 of the Tendring District Local Plan 2007 (Saved Plan) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.

The two dwellings would front onto Bromley Road, which is a rural country lane located

to the east of the main bulk of residential development located within Colchester. There are some detached dwellings situated in the surrounding area but overall it can be characterised as rural. The application site takes on a form that is mainly screened from the lane by mature hedging. To the rear of the site the land forms open agricultural fields. Consequently, the absence of significant built form in close proximity to the site, the narrow nature of the lane in this location and the presence of mature roadside hedging ensures the site and its immediate surroundings take on a strong rural character and appearance. As such the resultant dwellings would have a significant urbanising effect on the character of the area and result in the unplanned advance of urbanisation into the countryside eroding the rural character of the lane and resulting in a significant detrimental impact upon the rural appearance of the area.

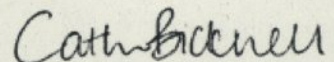
- 3 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public 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: 6th November 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
- EN6 Biodiversity
- 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
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- SP1 Presumption in Favour of Sustainable Development
- 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.