



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT: Zoe Manning
143 Connaught Avenue
Frinton On Sea
Essex CO13 9AB

APPLICANT: Mr & Mrs Thomas Impey and
Northover Contracts Ltd
C/O Agent

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 19/01328/FUL

DATE REGISTERED: 3rd September 2019

Proposed Development and Location of Land:

**Sub-division of site to form separate building plot, erection of detached bungalow and new vehicular access onto The Street.
Popses 1 The Street Kirby Le Soken Frinton 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. Paragraph 127 of the NPPF states that planning decisions should ensure that developments add to the overall quality of the area and are sympathetic to local character and history, including the surrounding built environment. Policy QL9 of the Tendring District Local Plan (2007) and Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that all new development makes a positive contribution to the quality of the local environment and protect and enhance local character and distinctiveness.

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. Paragraph 197 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining an application.

Saved Policy EN17 of the adopted Tendring District Local Plan (2007) states that development located outside a conservation area will be refused where it would prejudice the setting and surroundings of a conservation area or harm the inward or outward views.

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 donor property occupies a generous plot then compared to the closer knit built form surrounding the site. The site frontage is approximately 30 metres wide featuring mature hedgerows and vegetation complementing the setting of Popses. The dwelling is set back from the highway by approximately 35 metres with views possible from the existing access driveway. This property is the only dwelling that fronts The Street in the immediate locality with the adjacent dwellings to either side fronting Halstead Road and Briarfields. Popses is a pleasant cottage style dwelling with rendered walls under a plain tiled roof estimated to have been built in the 1700's and is considered to be a non-designated heritage asset where Paragraph 197 of the NPPF becomes relevant. The dwelling and its setting make a positive contribution to the street scene, character of the area and views from the adjacent conservation area.

There are examples of bungalows further to the west fronting The Street, however, Briarfields and Halstead Road are predominately characterised by 2 storey dwellings with the immediately adjacent dwelling, 251 Halstead Road being a chalet style property with rooms in the roof space.

Irrespective of the retention of some of the existing vegetation to the front of the site, the erection of a dwelling forward of Popses would appear out of character with the existing pattern of development and would appear cramped in such close proximity to the rear of 251 Halstead Road. The scale, design and finish of the proposed dwelling fails to reflect the character of the locality. Developing a new property in the immediate environs of this heritage asset would compromise the setting and significance of the Popses to the severe detriment of the character and appearance of the area and setting of the Kirby Le Soken Conservation Area.

The development is unsympathetic to local history and fails to protect or enhance local character and distinctiveness. The application is therefore contrary to the aforementioned national and local plan policies.

- 2 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 would be served by 100 square metres of private amenity space. The donor dwelling would retain ample private amenity space to its rear.

The proposed dwelling is located over 15 metres from the neighbouring dwelling to the west, number 1 Briarfields. The separation distance, single storey scale of the proposal and presence of existing mature boundary vegetation ensures that no material harm to the amenities of the occupiers of 1 Briarfields will result from the development.

However, the relationship with the donor dwelling to the rear and 251 Halstead Road to

the west are considered unacceptable. Popses is a 2 storey property with first floor windows having direct views into the rear private amenity space of the proposed dwelling. The narrow rear garden area of number 251 Halstead Road, approximately 4 metres in depth, runs the length of the side boundary of the proposed development. The single storey scale and fully hipped roof form does minimise the impact on sunlight and daylight and no loss or privacy will result. However, the proposed dwelling would be located within 5 metres of the rear windows of number 251 Halstead, at a depth of over 8.5 metres and a height of 5.7 metres therefore appearing overbearing and resulting in a loss of outlook.

The development fails to secure a good standard of amenity for existing and future occupants contrary to the afore-mentioned national and local plan policies.

- 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.

The application scheme proposes a dwelling on a site that lies within the Zone of Influence (Zol) being approximately 700 metres from the Hamford Water Ramsar and SPA. Since the development is for one dwelling only, the number of additional recreational visitors would be limited and the likely effects on Hamford Water from the proposed development alone may not be significant. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Hamford Water 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: 12th 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

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

EN6 Biodiversity

EN17 Conservation Areas

EN11A Protection of International Sites European Sites and RAMSAR Sites

COM6 Provision of Recreational Open Space for New Residential Development

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

CP1 Sustainable Transport and Accessibility

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.