



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT:	Mr Andy Cameron - Wright Ruffell Cameron Beaver House Plough Road Centre Plough Road Great Bentley Essex CO7 8LG	APPLICANT:	C Garrod Little Oaks Church Road Thorrington Colchester Essex CO7 8HE
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TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 19/00623/OUT **DATE REGISTERED:** 17th April 2019

Proposed Development and Location of Land:

**Outline application for two dwellings with all matters reserved.
Little Oaks Church Road Thorrington Colchester**

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 127 of the National Planning Policy Framework (NPPF) requires that development should respond to local character and history, and reflect the identity of local surroundings and materials. Paragraph 192 adds that it is proper to seek to promote or reinforce local distinctiveness.

Saved Policy HG13 of the adopted 2007 Local Plan and emerging Policy LP8 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 are of particular relevance in this instance due to the nature of the development constituting backland development. Saved Policy HG13 states that proposals for the residential development of backland sites will only be approved where it meets specific criteria.

Essex County Council Highways have been consulted on this application and object to the application due to the following; the proposal would lead to the intensification of an existing and substandard access onto Church Road where the lack of width of the access would mean opposing vehicles being unable to pass clear of the limits of the highway or enter and leave the highway in a controlled manner resulting in an unacceptable degree of hazard to all road users to the detriment of general highway safety. As far as can be determined from the submitted plan, the applicant does not appear to control sufficient land to provide a wide enough vehicle access for a grouping of dwellings served by a common access, to be used where it is required that opposing vehicles are able to turn into and out of the access and pass clear of the limits of the highway. This in turn would have the potential to introduce additional slowing and turning movements on Church Road due to merging, diverging and weaving manoeuvres. This would likely lead to increased conflict and risk of collisions for both emerging and approaching vehicles in addition to increased hazard to other highway users in the vicinity of the site access to the detriment of highway safety.

The development will be served by a long narrow shared access drive that would be detrimental to the character and appearance of the locality and wholly out of character with the pattern of development in the area.

The site is located within the built up area surrounded by existing dwellings and would not create a hard urban edge. However, the development is considered to be out of character in its setting which is characterised by linear, road frontage development.

The main character of Church Road is road frontage, linear development with an established front building line. The proposed development would represent an unacceptable form of backland development being wholly out of character with the area setting a harmful precedent for other cramped inappropriate plot sub-divisions to the rear of other properties within the street and surrounding area.

For these reasons, the proposal is considered contrary to Saved Policy HG13 criterion ii, iii, vi and vii and the aims of the NPPF.

- 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". These sentiments are carried forward within emerging Policy HP5.

In line with the requirements of saved Policy COM6 and emerging Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space.

There is currently a deficit of 0.4 hectares of formal open space in Thorrington. However, whilst there is adequate provision in terms of play to cope with some additional development the provision is now in need of replacement to cope with the increased population of the village, the nearest play area being at Chapel Lane located next to the proposed development which will see the biggest impact.

This application is not accompanied by a completed unilateral undertaking for a contribution towards play and formal open space facilities 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. The contribution is secured by unilateral undertaking.

The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zol) being approximately 1.5km away from Colne Estuary RAMSAR Site and SPA. Since the development is for 2 dwellings only, the number of additional recreational visitors would be limited and the likely effects on the Colne Estuary 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 the Colne Estuary; 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: 5th December 2019

SIGNED:

Catherine Bicknell

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

EN1 Landscape Character

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG9 Private Amenity Space

HG13 Backland Residential Development

HG14 Side Isolation

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)

- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP8 Backland Residential Development
- HP5 Open Space, Sports & Recreation Facilities
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity

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.