



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT:	Mr Peter Le Grys - Stanfords The Livestock Market Wyncolls Road Colchester Essex CO4 9HU	APPLICANT:	Arbora Homes C/O Agent
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TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 19/01538/OUT **DATE REGISTERED:** 16th October 2019

Proposed Development and Location of Land:

**Outline application for development of site with four dwellings.
Land to The East of Stagecoach Stud Wix Road Ramsey Essex**

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 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.

There is distinctly a more urbanised character to the northern section of Wix Road, with the southern section being more open and rural in character, with only limited existing development. It is acknowledged that the proposed scheme reduces the impacts previously highlighted by the Case Officer and Inspector; however it would still result in an urbanisation of the existing gap between the village and A120. Further, should this application be granted it would set an unwanted precedent for future similar forms of development adjacent to the east and west of the site, which would further result in the erosion of the existing countryside to the visual detriment of the area.

The proposal therefore fails to accord with the above local and national policies.

- 2 Paragraph 155 of the National Planning Policy Framework (2019) states inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Paragraph 158 of the NPPF (2019) further states that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding, and a sequential approach should be used in areas known to be at risk from any form of flooding.

Saved Policy QL3 of the Adopted Tendring District Local Plan 2007 also supports this approach by stating that the Council will ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, whilst for all proposed sites within Flood Zones 2 and 3, the sequential test must be applied to demonstrate that there are no reasonably available sites in a lower flood risk area.

These sentiments are echoed in emerging policy PPL1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft, which states that all development proposals will be considered against the National Planning Policy Framework's flood risk 'sequential test' to direct development toward sites at the lowest risk of flooding unless they involve development on land specifically allocated for development.

The site lies within Flood Zone 2, which is defined as having a medium probability of flooding, and the application is classified as a more vulnerable development and the sequential test therefore must be passed.

In this instance, the Council acknowledges further sites with extant planning permission for similar housing development, for example Land east of Bradfield Road, Wix (19/01048/OUT - 4 dwellings), Land adjacent 44 Elm Road, Little Clacton (19/00440/OUT - 5 dwellings), Land to The rear of 56 - 66 Frinton Road (19/01162/FUL - 6 dwellings), J E Fuller Ltd, Station Road, Kirby Cross (19/00777/FUL - 6 dwellings), Land North of Samsons Road, Brightlingsea (19/00731/FUL - 5 dwellings), and Land adjacent Fernview, Turnpike Close, Ardleigh (19/00467/FUL - 5 dwellings).

Having assessed the information submitted, officers have identified other sites in the surrounding district which could contain the development in a lower flood risk zone. The Council therefore does not agree that the sequential test requirement has been satisfied. The allocations in the emerging Local Plan, intelligence gathered in updating the SHLAA and knowledge of extant planning permissions indicates that there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding that are therefore considered sequentially preferable to the application site.

It is therefore considered that the proposal has failed the Sequential Test and the benefits of the development do not therefore outweigh the risks of flooding. The proposed residential development is therefore considered to be unacceptable and contrary to the advice contained in the NPPF, policy PPL1 of the emerging Local Plan, and Saved Policy QL3 of the 2007 Adopted Local Plan.

- 3 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 -2.70 hectares of equipped play in Ramsey and Parkeston and -0.93 hectares of formal open space. There are two play areas in Ramsey; a Local Area for Play located at Ramsey War Memorial and a Local

Equipped Area for Play at Clayton Road.

To cope with additional development in Ramsey, the War Memorial Trust have plans in place to increase the size of the War Memorial play area. Due to the lack of facilities in Ramsey it is felt that a contribution towards off-site play facilities is justified and relevant to the planning application, which can go toward the provision of improvements and new equipment to the War Memorial Play Area Ramsey.

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.

- 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. 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 Stour and Orwell 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: 10th 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

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG9 Private Amenity Space

HG14 Side Isolation

QL1 Spatial Strategy

QL3 Minimising and Managing Flood Risk

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

PPL1 Development and Flood Risk

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.