



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT: Miss Shannon Fenlon
ASP
Old Bank Chambers
London Road
Crowborough
TN6 2TT

APPLICANT: Wellsbridge Estates Ltd
C/O Agent

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 19/01735/OUT

DATE REGISTERED: 13th November 2019

Proposed Development and Location of Land:

**Redevelopment of site for 4 no single storey residential dwellings
(considering access only).
Land to rear of Three Elms Harts Lane Ardleigh 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 site lies outside of any Settlement Development Boundary as defined within both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). 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.

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 determination 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. 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. In line with Paragraph 8 of the National Planning Policy Framework (2019), achieving sustainable

development means meeting an economic objective, a social objective and an environmental objective. The sustainability of the application site is therefore of particular importance.

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 therefore being in line with the aims of the aforementioned paragraph 8 of the NPPF. 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 and to within development boundaries as defined within the Local Plan.

Ardleigh 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 Publication Draft (2017). These smaller villages are considered to be the least sustainable locations for growth and there is a concern that encouraging too much development in these areas will only serve to increase the number of people having to rely on cars to go about their everyday lives. It is accepted that each of these smaller rural settlements can achieve a small scale increase in housing stock over the plan period. To allow for this to happen, Settlement Development Boundaries have been drawn flexibly, where practical, to accommodate a range of sites both within and on the edge of villages and thus enabling them to be considered for small-scale residential 'infill' developments. With this in mind, where appropriate the emerging Local Plan settlement development boundary has been extended but does not include the application site or extend close to its locality.

However, in this instance, the application site is located approximately 3km from the edge of the settlement boundary with its already limited range of services and amenities. In this regard, there is no access to day to day needs within a practical walking distance and the conditions are unsafe on this 60mph country road with no footpaths or street lighting. Any social sustainability credentials of the site are severely diminished due to its distance from the built up area of Ardleigh which already has limited local services. It is highly likely that the occupants of the proposed dwellings would be car dependant failing to promote sustainable modes of transport therefore failing to meet the social strand of sustainable development.

Regardless of the Council's housing land supply position, the application fails to meet the social strand of sustainable development as set out within the NPPF and is contrary to the afore-mentioned local plan policies and the aims of the NPPF as a whole. The development is unnecessary and there are no public benefits that might warrant the proposal being considered in an exceptional light.

- 2 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. Furthermore, Paragraph 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes onto say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape. Outside development boundaries, the Local Plan seeks to conserve and enhance the countryside for its own sake by not allowing new housing unless it is consistent with countryside policies.

Although the site could not be described as isolated as it is bounded by built

development, the residential character of Harts Lane is that of sporadic dwellings on deep and spacious plots. Harts Lane is an unclassified country road with no footpaths or street lighting contributing to the semi-rural character of the area as a whole. Although there are redundant buildings currently present and the proposal is for single storey dwellings, the development represents an unplanned advance of urbanisation into the countryside creating a cul-de-sac of dwellings being wholly out of character. The development would result in a significantly harmful impact on the rural character of the area and its surroundings.

In balancing the sustainability issues of the proposal, the adverse social and environmental impacts of the proposal would significantly and demonstrably outweigh any economic benefits and would therefore not represent sustainable development.

- 3 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. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on viability, requires 30% of new dwellings on large sites to be made available for affordable or Council Housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as Council Housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement. There is a requirement for affordable housing on this application due to the site being greater than 0.5 hectares in area, namely 0.86 hectares. As set out in the emerging Local Plan, this equates to a requirement for 1 dwelling to be delivered as affordable housing.

There are currently 18 households on the housing register seeking a 4 bedroom home in Ardleigh and therefore there is a demonstrable need for affordable housing in the village. Although there is a demonstrable need for housing in the village of Ardleigh, the council would seek a financial contribution in lieu of on-site provision on this application as the funds can be used to deliver affordable housing in other parts of the district.

A completed Section 106 agreement to secure the above-mentioned planning obligations has not been provided prior to the application determination date and the application is therefore contrary to the above policies.

- 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. The contribution is secured by unilateral undertaking.

The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 4500 metres from the Stour and Orwell Estuaries. Since the development is for 4 dwellings only, the number of additional recreational visitors would be limited and the likely effects on the Stour and Orwell Estuaries from the proposed development alone may not be significant. However, new housing development within the Zoi would be likely to increase the number of recreational visitors to the Stour and Orwell Estuaries; 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.

- 5 Paragraph 108 of the National Planning Policy Framework 2019 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

As far as can be determined from the submitted plans the Applicant does not appear to own or control enough land to provide the proposed access with adequate vehicular visibility splays in both directions and is therefore contrary to the recommended minimum standards for highway safety. Currently, the access to the site serves a single dwelling and its ancillary uses satisfactorily. This proposal seeks to intensify the use of that vehicular access with the traffic movements associated with four additional dwellings, being 5 in total. In order to enable an informed decision and determine what measures would be required to improve the access and the inter-visibility at the access, the Highway Authority have requested a speed survey. No such survey has been provided.

The proposal would lead to the intensification of use of a substandard access by reason of insufficient vehicular visibility splays contrary to the interests of highway safety. The application is therefore contrary to the afore-mentioned national and local plan policies as it fails to demonstrate that there would be no harm to highway safety as a result of the development.

DATED: 8th January 2020

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

QL1 Spatial Strategy

QL9 Design of New Development
 QL10 Designing New Development to Meet Functional Needs
 QL11 Environmental Impacts and Compatibility of Uses
 HG6 Dwelling Size and Type
 HG7 Residential Densities
 HG9 Private Amenity Space
 HG4 Affordable Housing in New Developments
 TR1A Development Affecting Highways
 TR7 Vehicle Parking at New Development
 EN6 Biodiversity
 EN11A Protection of International Sites European Sites and RAMSAR Sites
 COM6 Provision of Recreational Open Space for New Residential Development
 EN1 Landscape Character
 Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)
 SP1 Presumption in Favour of Sustainable Development
 SPL1 Managing Growth
 SPL3 Sustainable Design
 LP1 Housing Supply
 LP3 Housing Density and Standards
 LP4 Housing Layout
 PPL3 The Rural Landscape
 CP1 Sustainable Transport and Accessibility
 CP2 Improving the Transport Network
 PPL4 Biodiversity and Geodiversity
 LP5 Affordable and Council Housing
 HP5 Open Space, Sports & Recreation Facilities
 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 Agent. 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 reasons 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.