



TENDRING DISTRICT COUNCIL

Planning Services

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AGENT: Mr Paul Calder
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APPLICANT: Mr Hubble
C/o Agent

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 19/01726/FUL **DATE REGISTERED:** 14th November 2019

Proposed Development and Location of Land:

Demolition of the existing bungalow and associated outbuildings and construction of 10no. bungalows (resulting in a net gain of 9no. residential dwellings), improvement of existing access and enhancement of existing landscaping features.

35 Holland Road Little Clacton Clacton On Sea Essex

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 is located outside of the Settlement Development Boundary for Little Clacton as defined within the saved Tendring District Local Plan 2007 and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Little Clacton is categorised in Policy SPL1 of the plan, along with six other villages, as a 'Rural Service Centre' in recognition of its size and range of local services available.

Saved Policy QL1 of the Tendring District Local Plan (2007) seeks to direct development towards larger urban settlements defined within the Local Plan. 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.

The policy also seeks to concentrate development within settlement boundaries and states that development outside those boundaries will only be permitted where it is consistent with countryside policies. There is nothing to suggest that the proposals accord with the Plan's countryside policies. As such, they conflict with Policy QL1.

Policy SPL2 defines settlement boundaries and states that development outside of those boundaries will be considered in relation to the settlement hierarchy and any other relevant policies within the plan. Given the size of the proposed housing development in relation to the scale of housing anticipated in Clacton, it is considered that this element of the proposal conflicts with Policy SPL2.

Officers consider that the emerging Local Plan is progressing well, the core planning

principles under paragraph 15 of the National Planning Policy Framework (NPPF) that development should be genuinely plan-led apply and the Council should actively manage patterns of growth is therefore awarded significant weight. With this in mind, it is considered appropriate to seek to protect villages from unfair, disproportionate and potentially unlimited levels of new housing growth.

At the time of this decision, 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.

As the site lies outside of the settlement development boundaries and is not allocated for development in either the adopted or emerging Local Plan, it is contrary to local policy. However, where Councils are short of identifying a five-year supply of deliverable housing sites, the National Planning Policy Framework's (NPPF) presumption in favour of sustainable development is engaged and applications must be considered on their merits.

The emerging Plan has identified opportunities for small scale growth and a modest increase in housing stock where appropriate at a level that is fair, achievable and sustainable. Consequently the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) settlement development boundaries for Little Clacton has been extended to accommodate the growth envisaged over the plan period. However, their extended defined boundaries do not include the proposed application site. As such the application site location is not considered to be a sustainable location for growth contrary to local plan and national planning policies.

- 2 Saved Policy HG13 of the adopted Tendring District Local Plan (2007) and draft policy LP8 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) relates to backland residential development. These policies require, amongst other things, that proposals for residential development of backland sites must not be out of character with the area or out of character in its particular setting. The policy also states that long or narrow accesses will be discouraged. Saved Policies QL9, QL10 and QL11 of the adopted Tendring District Local Plan (2007) seek to ensure that new development relates well to its site and surroundings and the size, scale, design and appearance of new development are in keeping. Draft Policy SPL3 states that new development should be well designed and maintain or enhance local character and distinctiveness.

Paragraph 127 of the National Planning Policy Framework (Framework) states that planning policies and decisions should ensure that developments; will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and history, including the surrounding built environment and landscape setting and establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials.

In this case the proposed bungalows would encroach into the undeveloped space to the rear of no. 35 Holland Road. This area is currently open and spacious in character.

The development would also be served by a narrow access drive located in close proximity to existing properties. Overall the incongruous layout of the proposal set behind an existing residential frontage and served by a narrow vehicular access would be at odds with the pattern of built form in the vicinity and significantly harm the character and

appearance of the area contrary to the aforementioned local and national planning policies.

- 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 sought where they meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

Saved Policy HG4 of the Tendring District Local Plan (2007) requires up to 40% of new dwellings on residential schemes of 5 or more units to be provided in the form of affordable housing to meet the needs of people that are unable to access property on the open market.

Emerging Policy LP5 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017), which is based on more up-to-date evidence of housing need and viability, requires for developments of 10 or more dwellings that 30% of new dwellings to be made available to Tendring District Council or an alternative provider to acquire at a discounted value for use as affordable housing, or as an alternative the Council will accept a minimum of 10% if new dwellings are to be made available alongside a financial contribution toward the construction or acquisition of property for use as affordable housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement.

A completed Section 106 has not been provided prior to the application determination date and the application is therefore contrary to the above policy.

- 4 Saved Policy COM6 of the Tendring District Local Plan (2007) states that for residential development below 1.5 hectares in size, where existing open space facilities are inadequate to meet the projected needs of the future occupiers of the development, a financial contribution shall be made to the provision of new or improved off-site facilities in scale and kind to meet these needs.

There is currently a deficit of 2.22 hectares of equipped play in Little Clacton. There is one play area in the village which is located along London Road and is a designated LEAP plus the Parish Playing Field has open space and used for all sports. Due to the significant lack of play and open spaces facilities in the area, a contribution is justified and relevant to the planning application. The contribution would be used towards creating additional facilities and improvements at the Parish Playing Fields.

A completed Section 106 has not been provided prior to the application determination date and the application is therefore contrary to the above policy.

- 5 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) and in particular the Hamford Water Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar, and Colne Estuary SPA and Ramsar. 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) 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.

The development is therefore contrary to Paragraph 175 of the National Planning Policy Framework, Policy EN11a in the adopted Local Plan and Policy PPL4 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

DATED: 26th February 2020

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
- QL1 Spatial Strategy
- QL2 Promoting Transport Choice
- 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
- QL12 Planning Obligations
- HG1 Housing Provision
- HG3 Residential Development Within Defined Settlements
- HG3A Mixed Communities
- HG4 Affordable Housing in New Developments
- HG6 Dwelling Size and Type
- HG7 Residential Densities

HG9 Private Amenity Space

HG13 Backland Residential Development

COM2 Community Safety

COM6 Provision of Recreational Open Space for New Residential Development

COM21 Light Pollution

COM23 General Pollution

COM29 Utilities

COM31A Sewerage and Sewage Disposal

EN1 Landscape Character

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN12 Design and Access Statements

EN13 Sustainable Drainage Systems

EN29 Archaeology

TR1A Development Affecting Highways

TR3A Provision for Walking

TR5 Provision for Cycling

TR7 Vehicle Parking at New Development

Tending District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SP1 Presumption in Favour of Sustainable Development

SP3 Meeting Housing Needs

SP5 Infrastructure & Connectivity

SP6 Place Shaping Principles

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP1 Improving Health and Wellbeing

LP1 Housing Supply

LP2 Housing Choice

- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP5 Affordable and Council Housing
- LP8 Backland Residential Development
- PPL1 Development and Flood Risk
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL7 Archaeology

Local Planning Guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

Application Refused Following Discussion - Where there is no Way Forward

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.