



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT: Malcolm Inkster - Trinity
Planning
33 West Street
Wivenhoe
Essex
CO7 9DA

APPLICANT: Mr D Newman and Mrs LM
Williamson
Oak Lodge

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 19/01464/OUT

DATE REGISTERED: 30th September 2019

Proposed Development and Location of Land:

**Proposal to erect two maisonettes with parking, amenity space and access.
Land adjacent Community Centre Long Meadows Dovercourt 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 application site lies within an area designated as Safeguarded Local Greenspace under emerging Policy PPL4 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). The site also lies immediately adjacent to existing open space protected under saved Policy COM7 in the adopted Tendring District Council Local Plan (2007).

The National Planning Policy Framework (2019) states that 'Existing Open space, sports and recreational buildings and land, including playing fields, should not be built on unless: a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or c) the development is for alternative sports and recreation provision'. Local green spaces should be 'in reasonably close proximity to the community it serves' and being 'demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field) tranquillity or richness of its wildlife'.

Emerging Policy HP4 does not permit the loss of Safeguarded Local Greenspace unless: a) The site is replaced by provision of space of equal quality and size; b) There is no longer a demand; c) The site is not appropriate for other open space functions; and d) Would not result in loss of space important to visual amenity.

Adopted Policy COM7 states development proposals will not be permitted that would prejudice the use or involve the loss of recreational open space, including children's play areas, informal open space, parks and public gardens.

The proposal would result in the loss of protected green space within the emerging local plan which, although currently overgrown, is nevertheless home to trees and vegetation, in close proximity to the community, and connected to a wider linear green corridor area which is of high ecological value. The site itself provides a home for wildlife and has a softening effect on the urban environment. It is therefore

considered the loss of this area of designated local greenspace would erode the quality and quantity of available green space; furthermore the applicant has not demonstrated how its loss would be replaced by equivalent or better provision, thus conflicting with emerging Policy HP4 and the National Planning Policy Framework (2019).

- 2 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 two dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 1,130 metres from the Hamford Water Ramsar and SPA. Since the development is for two dwellings 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 Zoi 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.

- 3 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.

There is currently a deficit of 12.59 hectares of equipped play in Harwich and Dovercourt. The nearest play area to the development site is located at Willow Way 0.2 miles from the development. To ensure the above play area is able to cope with the additional usage from this development it would be necessary to upgrade and increase the play provision available. Any contribution received would be used to provide new equipment at Willow Way Play Area. A contribution is therefore justified but this has not been provided the proposal is therefore contrary to adopted Policy COM6 and emerging Policy HP5.

DATED: 18th March 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

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

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

COM6 Provision of Recreational Open Space for New Residential Development

COM7 Protection of Existing Recreational Open Space Including Children's Play Areas and Pitch and Non-Pitch Sports Facilities

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SP6 Place Shaping Principles

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP3 Green Infrastructure

HP4 Safeguarded Local Greenspace

HP5 Open Space, Sports & Recreation Facilities

LP3 Housing Density and Standards

LP4 Housing Layout

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

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.