



## TENDRING DISTRICT COUNCIL

### Planning Services

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

**AGENT:** Mr Ben Elvin - Ben Elvin  
Planning Consultancy  
122 Constable Road  
Ipswich  
IP4 2XA

**APPLICANT:** H Edwards - Roundwood  
Restorations Ltd  
C/o Agent

#### TOWN AND COUNTRY PLANNING ACT 1990

**APPLICATION NO:** 20/00413/FUL

**DATE REGISTERED:** 18th March 2020

Proposed Development and Location of Land:

**Proposed change of use of the ground floor from A2/approved retail unit to residential flat (including changes to High Street frontage).  
2 High Street Manningtree Essex CO11 1AD**

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 Saved Policies QL9 and QL10 of the Tendring District Local Plan (2007) seek to ensure that alterations are well designed and meet functional requirements. Emerging Policies LP3 and LP4 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 support these objectives. The National Planning Policy Framework 2019 in paragraph 127 states that planning should always seek to secure a good standard of amenity for future occupants.

The proposed dwelling would; by reasons of poor outlook from a single aspect, poor layout and constrained gross internal area, disturbance from the adjoining highway within a locality with the character of a town centre, absence of any amenity area or outside storage for domestic items; fail to provide a degree of residential amenity which future occupiers could reasonably expect to enjoy. The proposal is contrary to Policies QL9 and QL10 of the adopted Local Plan; Policies LP 3 and LP 4 of the emerging Local Plan; and, the provisions of the National Planning Policy Framework and National Planning Practice Guidance.

- 2 Saved Policy QL3 of the Tendring District Local Plan (2007) and Policy PPL1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seek to ensure that the sequential test is employed to direct development to sites at the lowest risk of flooding.

It is considered that alternative sites for a dwelling are available elsewhere with a lower risk of flooding. The proposal is contrary to Saved Policy QL3 of the Tendring District Local Plan (2007) and Beyond and PPL1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) and the provisions of the National Planning Policy Framework at paragraph 158.

- 3 The National Planning Policy Framework 2019 in paragraph 189 states that in determining applications, Local Planning Authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. Policy EN23 of the Tendring District Local Plan (2007) states that proposals for development that would adversely affect the setting of a Listed Building will not be permitted. Policy EN17 of the Tendring District Local Plan (2007) states that development within a Conservation Area must preserve or enhance the character or appearance of the Conservation Area. Emerging Policies SP 6, PPL 8 and PPL 9 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives.

In the absence of sufficient justification for the proposal, the Local Planning Authority considers that the proposal would have a material adverse impact to the character of heritage assets; the assets being the host building, a Listed Building; the setting of 1 & 2 Stour Street, a Listed Building; 5 High Street, a Listed Building; and, Mistley and Manningtree Conservation Area. The proposal is contrary to Policies EN23 and EN17 of the adopted Local Plan; Policies SP 6, PPL 8 and PPL 9 of the emerging Local Plan; and, the provisions of the National Planning Policy Framework at section 16.

- 4 Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings. 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 a dwelling on a site that lies within the Zone of Influence (ZoI) being approximately 400m from the Colne Estuary Ramsar site. New housing development within the ZoI 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 this 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 Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

**DATED:** 7th July 2020

**SIGNED:**




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Graham Nourse  
Acting Assistant Director  
Planning Service

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

ER3 Protection of Employment Land

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG9 Private Amenity Space

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN12 Design and Access Statements

EN17 Conservation Areas

EN22 Extensions or Alterations to a Listed Building

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

PP2 Retail Hierarchy

PPL1 Development and Flood Risk

PPL8 Conservation Areas

PPL9 Listed Buildings

CP1 Sustainable Transport and Accessibility

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 seeking agreement to an extension of time for the determination of the application and identifying matters of concern with the proposal and clearly setting out the reasons for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal.

**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.