



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT:	Ella Murfet - Turley 8 Quay Court Colliers Lane Stow-cum-Quy Cambridge CB25 9AU	APPLICANT:	Catesby Estates PLC - C/O Turley Catesby House 5B Tournament Court Edgehill Drive Warwick CV34 6LG
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TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 19/01085/OUT **DATE REGISTERED:** 22nd July 2019

Proposed Development and Location of Land:

Proposed development of up to 116 dwellings including affordable homes, areas of landscaping, public open space, points of access and associated infrastructure works.

Plains Farm Plains Farm Close Ardleigh Colchester

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 outside of any designated Settlement Development Boundary as defined within the Adopted Tendring Local Plan (2007) and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

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 report, 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. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination in Public of the Local Plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

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.

The NPPF at its heart, promotes a presumption in favour of sustainable development that performs an economic, social and environmental role. The environmental role includes contributing to protecting and enhancing our natural, built and historic environment.

In this instance, the proposed development will significantly encroach upon the setting of the Grade II listed Plain Farmhouse, severing the building completely from its agricultural setting and historic function which would adversely affect the way that the building is experienced and understood and impacting on the way that it relates to the surrounding landscape. The development would result in harm to the significance of a designated heritage asset of national significance, with the harm being categorised as being 'less than substantial'. The proposed development would therefore be contrary to Policy EN23 of the Adopted Tendring Local Plan (2007) and PPL9 of the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

The development further fails to comply with Section 66(1) of the Listed Buildings and Conservation Areas Act 1990, which requires special regard to be had to the desirability of preserving the setting or any features of special architectural or historical interest that the building has. Having regard to the guidance in paragraphs 193-197 of the NPPF, the local planning authority has considered the public benefits associated with the development but has concluded that these would not outweigh the harm caused to the significance of designated heritage assets and would conflict with statutory duties, national guidance and Development Plan policies listed above.

Furthermore, the Council considers that the harm identified through the loss of agricultural land and open countryside that contribute towards the setting of Plains Farmhouse would also result in the proposed development failing the Environmental strand of sustainability and that as such the proposed development would not constitute sustainable development when assessed against the National Planning Policy Framework as a whole.

- 2 The proposal seeks outline planning permission for up to 116 dwellings and is contrary to the provisions of The National Planning Policy Framework, Saved Policies COM6, COM26, TR3a, TR5 and HG4 of the Adopted Tendring District Local Plan (2007) and Draft Policies LP5, PP12, HP1 and HP5 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The National Planning Policy Framework 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. Draft 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 11 or more dwellings, the

Council expect 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. The Council has identified that there is a high demand for affordable housing in the area. There is therefore a need for affordable housing to be delivered on site.

Policy HP1 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) states that the Council will work with others, including developers, to improve the health and wellbeing of residents by providing access to high quality health care services. The NHS has identified that there is insufficient capacity at local primary healthcare facilities and a financial contribution is sought to increase capacity to meet the increased demand arising from the development.

Saved Policy COM26 states where necessary planning permission will only be granted for residential developments of 12 or more dwellings if land and/or financial contributions are made to provide to mitigate the impact of the development on the education system. Draft Policy PP12 states planning permission will not be granted for new residential development unless the individual or cumulative impacts of development on education provision can be addressed, at the developer's cost, either on-site or through financial contributions towards off-site improvements. ECC Education confirm that children from the development will need to be provided with transport to school and seek a proportionate financial contribution that would be based on the number of qualifying dwellings to mitigate the impacts of the proposed dwellings.

Saved Policy COM6 requires new housing development in excess of 1.5 hectares to make provision for recreational Open Space on-site within new developments. The applicant proposes the provision of Public Open Space on the site, in the form of amenity greenspace; and an equipped play area. The quantum, setting out and future management of the Open Spaces need to be secured to ensure that the needs of future residents are met and that the mitigation and benefits promoted by the applicant are secured.

Saved Policy TR5 states major new developments should provide appropriate facilities for cyclists and that this should include links to the existing cycle networks. Policy TR3a states that where practicable all developments will be required to link with existing footpath and provide convenient, safe, attractive and direct routes for walking and that where appropriate, development should also improve links to and between pedestrian routes and public transport facilities, and support pedestrian priority measures. The Highway Authority have identified a need for improved cycle and pedestrian infrastructure to provide safe and useable links to connect to the existing cycle network and to nearby facilities.

A completed Section 106 obligation to secure the relevant provision of Affordable Housing, Public Open Space and Off-Site Highway Works and financial contributions towards improvements to cycling infrastructure, primary healthcare, and school transport has not been provided and the application is therefore contrary to the above policies.

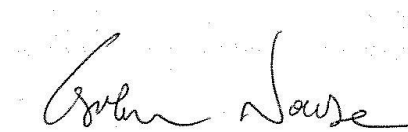
- 3 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public 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 for Essex Estuaries SAC, Colne Estuary SPA and Ramsar, Stour and Orwell Estuaries SPA and Ramsar, Dengie SPA and Ramsar, and Blackwater Estuary SPA and Ramsar. Stour and Orwell Estuaries SPA and Ramsar are the closest European sites and are located around 6.8km from the application site. New housing development within the Zol would be likely to increase the number of recreational visitors to these designated sites; and, in combination with other developments it is likely that the proposal would have significant effects on the designated sites. Mitigation measures must therefore be secured prior to occupation.

A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast 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 and Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

DATED: 21st August 2020

SIGNED:



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

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| 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 |
| HG3A | Mixed Communities |
| HG4 | Affordable Housing in New Developments |

HG6	Dwelling Size and Type
HG7	Residential Densities
HG9	Private Amenity Space
COM1	Access for All
COM2	Community Safety
COM6	Provision of Recreational Open Space for New Residential Development
COM21	Light Pollution
COM22	Noise Pollution
COM23	General Pollution
COM26	Contributions to Education Provision
COM29	Utilities
COM31A	Sewerage and Sewage Disposal
EN1	Landscape Character
EN6	Biodiversity
EN6A	Protected Species
EN6B	Habitat Creation
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN11B	Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites
EN12	Design and Access Statements
EN13	Sustainable Drainage Systems
EN23	Development Within the Proximity of a Listed Building
EN29	Archaeology
ER3	Protection of Employment Land
TR10A	General Aviation
TR1A	Development Affecting Highways
TR2	Travel Plans
TR3A	Provision for Walking
TR4	Safeguarding and Improving Public Rights of Way
TR5	Provision for Cycling

TR6	Provision for Public Transport Use
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
SP2	Spatial Strategy for North Essex
SP5	Infrastructure & Connectivity
SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
SP4	Providing for Employment & Retail
SP6	Place Shaping Principles
HP1	Improving Health and Wellbeing
HP3	Green Infrastructure
HP4	Safeguarded Local Greenspace
HP5	Open Space, Sports & Recreation Facilities
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
LP5	Affordable and Council Housing
PP12	Improving Education and Skills
PPL1	Development and Flood Risk
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL7	Archaeology
PPL9	Listed Buildings
CP1	Sustainable Transport and Accessibility
CP2	Improving the Transport Network
CP3	Improving the Telecommunications Network

Local Planning Guidance

Essex Design Guide

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 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.