



# TENDRING DISTRICT COUNCIL

## Planning Services

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

**AGENT:** Mr Ben Elvin - Ben Elvin  
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**APPLICANT:** Mr P Brown  
Old Nurseries  
Burgh  
Woodbridge  
IP13 6JN

### TOWN AND COUNTRY PLANNING ACT 1990

**APPLICATION NO:** 20/01438/OUT

**DATE REGISTERED:** 12th November 2020

Proposed Development and Location of Land:

**Erection of two detached dwellings and alterations to existing vehicular access.**

**Land adjacent Timberlea Mere Shair Lane Great Bentley 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)

- 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 National Planning Policy Framework 2019 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.

The application site is located in a semi-rural area with equidistant ranges of 1.5 miles from the village of Great Bentley and a convenience shop in Weeley. The site is located outside of any defined settlement boundary in both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). The site is significantly detached from the main focus of built form within Great Bentley, along a road which is neither lit nor paved which contains a total of seven buildings (six dwellings and a farmstead). The main body of the application site has been left to nature in the main, with a pathway cut around the perimeter.

Properties along Shair Lane typically benefit from expansive plots; the application site is a typical size of plot - notwithstanding this it is proposed to site two dwellings on the plot which would result in an incongruous-appearing development that would be out of character with the prevailing semi-rural pattern of development in the area.

There is a strong conifer hedgerow to the western boundary however removal/breaking through this would be required to facilitate adequate vehicular

access. Along with the undeveloped and 'garden-like' appearance of the site, two new dwellings would introduce a harsh and alien form of development which would demonstrably harm the character of the area.

Accordingly, the development of the site would represent an erosion of the rural relatively undeveloped aspect of Shair Lane which would be to the significant detriment of visual amenity. The proposal by reason of introducing two dwellings on a plot the size of which typically contains one dwelling, is not considered to make a positive contribution to local character and does not reinforce local distinctiveness.

In applying the NPPF's presumption in favour of sustainable development, the adverse impacts of the proposal on; the Council's ability to manage growth through the plan-led approach, the adverse impact upon the character and appearance of the area and the absence of any pedestrian infrastructure; are not outweighed by the modest benefit of two additional dwellings when the Council are able to report a significant surplus of housing land supply over the 5 year requirement.

For the reasons set out above the proposal is considered to fail the social and environmental objective. This together with the conflict with Saved Policy QL1 of the adopted plan and emerging Policy SPL1 amounts to an unsustainable form of development.

- 2 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.

Historically the Council had indicated that we cannot demonstrate a deliverable five year supply of housing, this is no longer the case as, on adoption of the Section 1 Plan, the Council will be able to report a significant surplus of housing land supply over the 5 year requirement, in the order of 6.5 years. As such, providing an additional two houses can no longer be deemed as a benefit to outweigh the harm.

Whilst it is recognised that there would be conflict with Saved Policy QL1 (as recognised by the Inspector) and Emerging Policy SPL1 in terms of the site being sited outside the settlement development boundary 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 respect of the social dimension, Policy SPL1 identifies Great Bentley as a Rural Service Centre, the third lowest of four categories in sustainability terms. The supporting text states that Rural Service centres, the Local Plan identifies opportunities for smaller-scale growth. Some of these villages will accommodate a

modest increase in housing stock, where appropriate, within the plan period. It is also necessary to consider the proximity of the site to destinations such as convenience shopping, education, healthcare, community halls and jobs. Given that the development would be sited where there are no footpaths or streetlights, the nearest bus-stop is 767m away and the nearest convenience shops, school(s) and GP- Services are in excess of one and a half miles away; given the absence of any local services within walking distance it is considered that the future occupiers of the proposed properties would be heavily reliant upon the need to travel by private vehicle for services and facilities and for access to employment. As such occupiers of the development would be reliant on private motor car and the proposed development would not accord with one of the core aims of paragraph 17 of the Framework, which states that planning and decision taking should actively manage patterns of growth to make the fullest use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

- 3 The National Planning Policy Framework 2019 (NPPF) at paragraph 127 states that planning decisions should ensure that developments will function well and add to the overall quality of the area. Furthermore, Paragraph 108 of the NPPF 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.

The applicant has failed to demonstrate adequate visibility splays from the proposed access in accordance with the speed of the road which are to the satisfaction of the Highway Authority. The lack of such visibility would result in an unacceptable degree of hazard to all highway user to the detriment of highway safety. The proposal would intensify the use of an existing access which has deficiencies in geometric layout and visibility which is not in accordance with current safety standards. The existence of an access in this location is a matter of fact and therefore some degree of conflict and interference to the passage of through vehicles already occurs but the intensification of that conflict and interference which this proposal would engender would be to the detriment of highway safety. It has not therefore been adequately demonstrated that access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate.

**DATED:** 8th January 2021

**SIGNED:**




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Graham Nourse  
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

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG9 Private Amenity Space

LP1 Housing Supply

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

PPL4 Biodiversity and Geodiversity

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 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.