



# TENDRING DISTRICT COUNCIL

## Planning Services

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

<b>AGENT:</b>	Mr David Taylor - AFT Design 8 Buckingham Square The Quay Burnham On Crouch Essex CM0 8AS	<b>APPLICANT:</b>	Mr Laurence Sandum 29 Percival Road Walton On The Naze Essex CO14 8HH
---------------	--	-------------------	---

### TOWN AND COUNTRY PLANNING ACT 1990

**APPLICATION NO:** 20/01273/FUL      **DATE REGISTERED:** 15th September 2020

Proposed Development and Location of Land:

**Proposed demolition of existing dwelling and erection of 9 apartments,  
associated parking and landscaping.  
17 Standley Road Walton On The Naze Essex CO14 8PT**

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 site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for a proposed demolition of existing dwelling and erection of 9 apartments, associated parking and landscaping, which is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).

Paragraph 155 of the National Planning Policy Framework 2019 states inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 157 states that Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by (inter alia) applying the Sequential Test. Paragraph 158 further explains that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

Saved Policy QL3 of the adopted Tendring District Local Plan 2007 supports this approach by stating that the Council will ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of

flooding, whilst for all proposed sites within Flood Zones 2 and 3, the sequential test must be applied to demonstrate that there are no reasonably available sites in a lower flood risk area. These sentiments are echoed in draft policy PPL1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017, which states that all development proposals will be considered against the National Planning Policy Framework's flood risk 'sequential test' to direct development toward sites at the lowest risk of flooding unless they involve development on land specifically allocated for development.

The application is accompanied by a Flood Risk Assessment and evidence in support of an assessment against the Sequential Test.

The Council considered that that the 4 condition methodology used in the Sequential Test is too stringent and unreasonable resulting in only 10 sites of the available 108 in the 2019 updated SHLAA being considered and all sites eventually being discounted. No other unallocated or windfall sites have been considered. According to the evidence, only 10 sites were extracted from the 108 for further consideration due to a comparable site area in compliance with Condition 1 of the chosen methodology. Therefore, sites within a lower risk of flooding have been discounted without further assessment simply due to site area. The assessment discounts the majority of sites due to extant permission only.

The Sequential Test does not provide a case for the essential siting of the development in this high risk area nor does it provide adequate information to demonstrate that there are no alternative sites available in accordance with the National Planning Policy Guidance for Sequential Tests. Therefore, the quantum of development as proposed under this application, either individually or cumulatively, would be possible in areas at lower risk of flooding. Thus, the Council are not persuaded that the Sequential Test has been passed.

- 2 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. Paragraph 127 of the NPPF states that planning decisions should ensure that developments add to the overall quality of the area and are sympathetic to local character and history, including the surrounding built environment. Policy QL9 of the Tendring District Local Plan (2007) and Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that all new development makes a positive contribution to the quality of the local environment and protect and enhance local character and distinctiveness. In addition, Saved Policy HG14 of the adopted Tendring District Local Plan (2007) states that proposals for new dwellings will be required to retain appropriate open space between the dwellings and the side boundaries of the plot to ensure that new development is appropriate in its setting and does not created a cramped appearance.

Although the dwelling itself is of no arichtienal or historic merit that warrants its retention, other than the 4 storey block of flats to the east, the rear and side boundaries of the site are not enclosed by built form and the spaciousness of the plot currently contributes positively the locality.

In this instance, the footprint of the building appears contrived and overly large almost filling the plot with a pinch point to the rear boundary and limited triangular areas of amenity space that appear as left-over space which do not compliment the building and may not get used by residents. The rear portion of the site is currently open occupying the private amenity space and parking areas serving the existing dwelling. Similarly, the adjacent flats has a large amenity area to the rear of the building. In contrast, the proposed building extends the full depth of the site appearing out of character and

comprising the openness of the side and rear views of the site. The flat roof design actually appears higher than the mono-pitch roof design of the adjacent flats, which in combination with the depth and bulk of the building would appear out of scale and incongruous in the street scene and from public vantage points to the rear. Given the strong architecture of neighbouring buildings such as the school, the proposed design and use of a grey brick finish fails to respond to local character. The proposed western elevation aligns with the western boundary of the site and overlooks the adjacent amenity space. This elevation will be a prominent feature of the building due to the orientation of the road, the gap between neighbouring school and the increase in scale. Currently this elevation is bland and featureless with no brick detailing, interest or variation in fenestration.

Overall, the scale, height and bulk of the proposal amount to overdevelopment of the site with a detailed design and finish, which fails to protect and enhance local character and distinctiveness. The siting of the development on a prominent plot exacerbates the harm identified. The development is wholly inappropriate and fails to make a positive contribution to the quality of the local environment, contrary to the aims of the above-mentioned national and local plan policies.

- 3 Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to create places that are safe, inclusive and accessible with a high standard of amenity for existing and future users. Saved Policy QL10 of the adopted Tendring District Local Plan (2007) states that permission will only be granted if; buildings and structures are orientated to ensure adequate daylight, outlook and privacy and provision is made for functional needs including private amenity space and accessibility. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives. Furthermore, Saved Policy HG14 of the adopted Tendring District Local Plan (2007) states that proposals for new dwellings will be required to retain appropriate open space between the dwellings and the side boundaries of the plot to safeguard the amenities and aspect of adjoining residents.

The proposed ground floor plan shows a disconnect between the car park area and the entrance to the building meaning that residents need to go back onto the street to access the building or cut across landscaped areas. Furthermore, the parking spaces provided are too few and undersized. The proposal therefore fails to meet the functional needs of the future occupants of the development.

The south facing orientation of the site together with the depth and height of the building will result in some loss of afternoon/evening sunlight to the rear amenity space serving the adjacent flats. The layout and depth of the building, although slightly angled away from the adjacent flats, will result in balcony areas and windows serving main living rooms facing toward to the rear private amenity space of Kings Reach resulting in overlooking and loss of privacy. Therefore, the scale, siting and layout of the building will result in an unneighbourly and harmful relationship with the adjacent flats at 'Kings Reach' to the east to the detriment of the amenities of existing residents.

The proposed development therefore fails to provide a high standard of amenity and functionality for existing and future occupants contrary to the aims of the above-mentioned national and local plan policies.

- 4 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.

Additionally, the current Essex County Council Parking Standards 2009 set out the requirements for residential development. A 1 bedroom dwelling requires 1 parking space and a property of 2 or more bedrooms require 2 parking spaces. 0.25 spaces per dwelling (unallocated) (rounded up to nearest whole number) should be provided for visitors. The preferred vehicle parking bay sizes are set out in paragraph 3.2.1 of the standards stating that each space should be 5.5m x 2.9m. Paragraph 3.2.7 goes on to say that parking areas that are adjacent to solid structures such as a wall or fence should increase the width of these bays by 1m to allow for improved manoeuvrability and entry/exit of people to/from the vehicle. The standards do allow for a minimum bay space of 5m x 2.5m but this bay size should only be used in exceptional circumstances.

Having regard to the above standards, the proposed development of 6 no. 2 bedroom apartments and 3 no. 1 bedroom apartments requires 17 spaces (including visitor spaces). The parking is provided in an undercroft arrangement with some spaces constrained by enclosures thus requiring the provision of the larger sized bays. Only 11 of the smaller sized bays are provided. There are no exceptional circumstances that warrant the use of the smaller sized bays and therefore all 11 spaces provided are considered undersized. Furthermore, the constrained parking spaces appear to fail to be provided sufficient manoeuvring or circulatory space for pedestrians accessing the car, the restricted width of the car space is also likely to impede manoeuvring from the space into the access area and turning to leave and join the highway.

The overall parking provision for the density of the application is wholly inadequate in terms of both the number of spaces and bay size/manoeuvrability. This would lead to increased kerbside parking stress in an already congested residential street exacerbated by the traffic and movements associate with the adjacent primary school. The proposal would set a precedent for future similar developments which would likely lead to inappropriate parking detrimental to the general safety of all highway users and undermine the principle of seeking to discourage on-street parking in the locality.

- 5 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 14.12 hectares of equipped play in Frinton, Walton & Kirby. However, there is more than adequate formal open space across the area. Any additional development in Walton-on-the-Naze will increase demand on already stretched play areas. Therefore, due to the significant lack of play facilities in the area a contribution towards play is justified and relevant to the planning application. The contribution would fund additional facilities to Bathhouse Meadow site.

The financial contribution has not been secured through a completed unilateral undertaking and the development is therefore contrary to the above-mentioned local plan policies.

- 6 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 contribution is secured by unilateral undertaking.

The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zol) being approximately 750 metres from Hamford Water SAC, SPA and Ramsar. New housing development within the Zol 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 through a completed unilateral undertaking in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. The application is therefore 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.

**DATED:** 15th December 2020

**SIGNED:**




---

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

QL3 Minimising and Managing Flood Risk

QL6 Urban Regeneration Areas

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

EN6 Biodiversity

COM6 Provision of Recreational Open Space for New Residential Development

COM33 Flood Protection

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2007

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

LP3 Housing Density and Standards

LP4 Housing Layout

PP14 Priority Areas for Regeneration

PPL1 Development and Flood Risk

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

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 Agent. 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.