

DELEGATED DECISION OFFICER REPORT

| AUTHORISATION | INITIALS | DATE |
|---|----------|------------|
| File completed and officer recommendation: | AP | 26/01/2021 |
| Planning Development Manager authorisation: | TC | 26/01/2021 |
| Admin checks / despatch completed | DB | 26/01/2021 |
| Technician Final Checks/ Scanned / LC Notified / UU Emails: | CC | 26.01.2021 |

Application: 20/01379/FUL **Town / Parish:** Clacton Non Parished

Applicant: Michael Wagland

Address: Land adjacent 2 Harrow Road Clacton On Sea

Development: Proposed erection of a studio home comprising of studios on ground and first floors, with first floor roof terrace and attic bedroom.

1. Town / Parish Council

n/a

2. Consultation Responses

ECC Highways Dept
05.01.2021

The site is in a town centre location where there is reasonably good transport links; It is noted that no off-street parking is being provided and the Highway Authority would not deem the application of current Parking Standards necessary in this instance.

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.

2. Prior to occupation the existing access/ drop kerb as shown on the existing site layout plan (DWG. Wag/21) shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / cycleway / kerbing immediately the proposed new access is brought into first beneficial use.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety in accordance with policy DM1.

3. Cycle parking shall be provided in accordance with the EPOA

Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

4. Prior to occupation of the proposed dwellings, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and public car parking facilities.

2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

SMO1 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester, CO7 7LT

3: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Building Control and
Access Officer
24.11.2020

No comments at this stage.

UU Open Spaces
16.12.2020

Response from Public Realm
Open Space & Play

Application Details

Application No: 20/01379/FUL

Site Address: Land adjacent 2 Harrow Road Clacton on Sea Essex

Description of Development: Proposed erection of a studio home comprising of studios on ground and first floors, with first floor roof terrace and attic bedroom.

Current Position

There is currently a deficit of 41.08 hectares of play in the Clacton/Holland area.

Recommendation

Although there is a deficit of play space in Clacton/Holland, it is not felt that this development would impact the current deficit.

3. Planning History

| | | | |
|-----------------|--|-----------|------------|
| 11/00198/FUL | 1 bedroom house. | Refused | 19.04.2011 |
| 11/00680/FUL | 1 bedroom house. | Refused | 15.08.2011 |
| 11/01148/FUL | 1 bedroom house. | Refused | 22.11.2011 |
| 12/00174/FUL | One bedroom house. | Approved | |
| 13/00939/OUT | Construction of a new house. | Refused | 24.09.2013 |
| 13/01290/OUT | One bedroom maisonette. | Withdrawn | 21.01.2014 |
| 14/30106/PREAPP | Proposed maisonette. | Refused | 01.05.2014 |
| 15/30338/PREAPP | Proposed Architectural Studio. | | 15.01.2016 |
| 16/00113/FUL | Erection of an architectural studio. | Approved | 23.03.2016 |
| 16/01406/DISCON | Discharge of Conditions 2 (Materials) and 3 (Parking/Bicycle Storage) | Approved | |
| 17/00131/DISCON | Discharge of Conditions 2 (Materials) 3 (Bicycles), 5 (CMS) of Planning Permission 16/00113/FUL. | Approved | 16.02.2017 |
| 17/00226/FUL | Variation of condition 2 of 16/00113/FUL. Reduction to the width of windows to allow timber | Approved | 17.05.2017 |

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| | cladding to match the windows of the rear elevation and increase the height of the building and the single storey element to front. | | |
| 19/30005/PREAPP | Proposed new house with studio in the attic. | Refused | 15.02.2019 |
| 19/00396/FUL | Proposed erection of 2 bedroom house with attic studio. | Refused | 10.05.2019 |
| 19/30192/PREAPP | Proposed Architectural Studio | Approved | |
| 19/01848/FUL | Variation of conditions 07 (approved plans) of planning permission 17/00226/FUL. | | |
| 20/30090/PREAPP | Proposed multi-use occupancy comprising bedroom in attic, studio on first floor and living accommodation on ground floor. | Refused | 25.06.2020 |
| 20/01379/FUL | Proposed erection of a studio home comprising of studios on ground and first floors, with first floor roof terrace and attic bedroom. | Current | |

4. Relevant Policies / Government Guidance

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

HG9 Private Amenity Space

HG14 Side Isolation

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

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

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

HP5 Open Space, Sports & Recreation Facilities

CP1 Sustainable Transport and Accessibility

PPL4 Biodiversity and Geodiversity

Local Planning Guidance
Essex Design Guide

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10th December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.

The Council is now making arrangements to formally adopt Section 1 of the Local Plan in its modified state and this is expected to be confirmed at the meeting of Full Council on 26th January 2021 – at which point will become part of the development plan and will carry full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan. In the interim, the modified policies in the Section 1 Local Plan, including the confirmed housing requirement, can be given significant weight in decision making owing to their advancement through the final stages of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) is now expected to proceed in 2021 and two Inspectors have already been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.

Where emerging policies are particularly relevant to a planning application and can be given weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices.

In relation to housing supply:

The 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 decision, the supply of deliverable housing sites that the Council can demonstrate technically falls below 5 years – but this is only because, until the modified Section 1 Local Plan is formally adopted at the end of January 2021, housing supply has to be calculated against a housing need figure derived through the government's 'standard methodology' – a figure that is significantly higher than the 'objectively assessed housing need' of 550 dwellings per annum in the Section 1 Plan and confirmed by the Inspector in his final report to be sound. Because of this technicality, the NPPF still requires 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.

However, because the housing land supply shortfall is relatively modest when applying the standard method prescribed by the NPPF and significant weight can now be given, in the interim, to the sound policies in the modified Section 1 Plan (including the housing requirement of 550 dwellings per annum), the reality is that there is no housing shortfall and, 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. Therefore, in weighing the benefits of residential development against the harm, the Inspector's confirmation of 550 dwellings per annum as the actual objectively assessed housing need for Tendring is a significant material consideration which substantially tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing – particularly in the consideration of proposals that fall outside of the settlement development boundaries in either the adopted or the emerging Section 2 Local Plan.

5. Officer Appraisal

Site Description

The site is located on the southern side of Harrow Road, 30 metres east of the junction with Wellesley Road and is within the Settlement Development Boundary for Clacton on Sea. The site is clear and includes some areas of block paving. The site is bounded by a terrace of 3 no. two-storey houses to the east, a two storey property to the west incorporating the shop Cycle Mart on the corner with Wellesley Road. Flats of three storeys adjoin the Cycle Mart shop facing Wellesley Road which back onto the application site.

Description of Proposal

The application seeks full planning permission for a studio home comprising of studios on ground and first floors, with first floor roof terrace and attic bedroom.

Assessment

The main planning considerations in this instance are:

- Principle of Development
- Layout, Scale and Appearance
- Residential Amenity
- Highway Safety and Parking
- Financial Contributions - Open Space and Play Space
- Financial Contribution - Recreational Disturbance

Principle of Development

The site lies within the Clacton on Sea Settlement Development Boundary as defined within the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Policy HG3 of the Adopted Tendring Local Plan 2007 and Policy SPL2 of the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 states that there is a general presumption in favour of new development within defined development boundaries of towns and villages, subject to detailed consideration against other material planning considerations. The site is located in an area with mixed residential and commercial uses and is not designated for any particular use. The principle of development in this location is acceptable subject to the detailed considerations relevant to this proposal which are set out below.

Background

Planning permission for an architect's studio was approved on the site in 2016, however the permission has not been implemented. The site has also been subject of a number of applications relating to the erection of a single dwelling which have been refused and the most recent application in 2019 also dismissed at appeal. One reason the appeal was dismissed focussed on

the under sized private amenity space which was considered of limited practical use and overlooked by neighbouring properties. The second reason for dismissal related to a lack of legal agreement for mitigation measures in the form of a financial contribution to overcome the effects of development on the habitats as stated within the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy.

Layout, Scale and Appearance

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The submitted plans show a building of similar form to that approved under 16/00113/FUL and 17/00226/FUL for an architects studio, however it has been scaled up to incorporate a first floor front terrace area and three storeys at the rear creating what is labelled as a studio at ground and first floor and a bedroom at second floor.

The terrace of properties that the proposal will join is red brick with a slate roof over two storeys. Although the proposed matching materials of red brick and slate roof will tie the buildings together, the amplified scale when compared to the previously approved scheme of 16/0113/FUL will represent an unacceptable form of development that will appear dominant in the street scene. The proposed first floor front terrace wall and glazing which is level with the existing elevation of the row of terraces introduces a new composition which is out of character with the immediate area and appears out of place. In addition, at the front, the proposed ground floor private terrace provides an area enclosed by 2 metre high steel fencing which is not supported and breaks from the uniformity of the street scene whereby the existing small front gardens along Harrow Road are characterised by low garden walls.

It is acknowledged that other dormers are evident in the immediate area. The front dormer at 6 Harrow Road noted by the applicant in their design statement meets with the Essex Design Guide criteria for dormers, is proportionate in size and scale to the existing dwelling and uses hanging tiles to assimilate it with the main roof of the dwelling. In contrast the proposed rear 'glass box' flat roof dormer, by way of its design, materials and siting where it would be visible on entering Harrow Road from the west will create a dominant feature in the roof which is unacceptable.

The Essex Design Guide (2005) offers detailed guidance on what is acceptable design in relation to dormers. It states that they should be a minor incident in the roof plane and not over-dominant in their composition. Their purpose should be to light the roof space not gain extra headroom over any great width and they should not be located close to verges or hips.

Residential Amenities

The proposed position of the multi-use property at the end of the terraced Victorian properties will ensure that there will be no significant impact in terms of loss of light to any neighbouring properties. The proposed roof terrace that fronts Harrow Road however has the potential to overlook the amenity area of the flats at 132 Wellesley Road. Although the area doesn't currently appear to be used for sitting out, it is a private area enclosed by fencing and should therefore be protected in this form. It is noted that the submitted section drawing demonstrates the height of the western elevation of the terrace as 1.5 metres, a height of 1.7 metres would be required to mitigate the risk of overlooking in this regard.

The rear dormer will increase the risk of overlooking by the nature of its glass structure which will enable views from the sides down into neighbouring private amenity space and direct views into the rear windows of the flats at Wellesley Road. In addition whilst a normal window will still create a degree of overlooking, what is proposed is a feature that attracts people to look out. It also concerns the perceived overlooking to the neighbours which will be greater from the 'glass box'.

Saved Policy HG14 of the adopted Tendring District Local Plan 2007 seeks to safeguard the amenities and aspect of adjoining residents. The policy requires retention of appropriate open

space between the dwelling and the side boundaries of the plot where the proposal is over 4 metres in height, as in this case. The proposal spans the width of the application site however as the western elevation of the proposal will abut the amenity space of the flats at 132 Wellesley Road and is similar in form to the previously approved architects studio it is considered acceptable.

Saved Policy HG9 of the Tendring District Local Plan 2007 seeks to provide a minimum of 50 square metres of private amenity space for a property with one bedroom. The proposal incorporates two areas suggested to be enjoyed as private amenity space of which 43 square metres is located behind the property at ground floor level and 10 square metres as a first floor terrace at the front of the property. The 50 square metres of space required has been met, however reference to a previous appeal decision ref: APP/P1560/A/12/2175988 relating to 11/01148/FUL for a one bedroom dwelling on this site finds that the area to the rear of the property would have *“no privacy with directly overlooking windows from the flats approximately 2m to the west, and other gardens immediately to the north, east and south. The provision of amenity space would therefore fail to address the needs of the occupiers and would be of poor design, contrary to the expected functional needs as set out in Local Plan Policy QL10”*.

This is followed up by the Inspector in the decision ref: APP/P1560/W/19/3233960 relating to 19/00396/FUL for a two bedroom property on this site who confirms *“The proposed amenity area would also be bordered by a fence of some 2m in height...that will result in an oppressively confined space which would not deliver a reasonable sized area for activities such as sitting out, hanging washing or gardening. Moreover, the garden is rather small in comparison to the prevailing size of gardens in the area and would be of limited practical use for the occupiers. The amenity area would also be severely overlooked by those properties that flank the site along Harrow Road and Wellesley Road. Consequently, the proposal...would erode the living conditions for future occupiers. Thus, the development would not provide a satisfactory level of private amenity space. It would be in conflict with Policies QL10 and HG9 of the Local Plan which seek, amongst other things, to ensure that new development makes provision for functional needs, which includes acceptable levels of private amenity space”*. The appeal decisions support the view that the rear ground floor outside area is not suitable as private amenity space as proposed.

It is accepted that the terrace provides additional space than that proposed in the two appeal examples above although as the two proposed amenity spaces are unconnected they offer limited overall value in terms of an area that is considered usable. The terrace could be used for sitting out, however its north facing enclosed position fronting the road would offer inferior quality amenity.

Highway Safety and Parking

The Essex County Council Car Parking Standards – Design and Good Practice (2009), requires one off road car parking space for a one-bedroom dwelling. The proposal does not provide any off road car parking although the site is located in a sustainable location near to shops and services where the use of a car is not required. In addition, the existing dropped kerb would be removed allowing space on the road for further on street parking.

Essex Highways do not object to the proposal due to its close proximity to services in Clacton on Sea subject to conditions which request a construction method statement, permanent closure of the dropped kerb, provision of cycle parking and a residential travel pack.

Financial Contribution – Open Space and Play Space

Saved Policy COM6 of the adopted Local Plan 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". The financial contribution would be secured through a legal agreement.

Consultation with the Council's Open Space Team has been undertaken and they have confirmed that a contribution is not required in this instance.

Financial Contribution – Recreational Disturbance

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 constitutes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 7000 metres from Essex Estuaries SAC and the Colne Estuary RAMSAR. New housing development within the Zol would be likely to increase the number of recreational visitors to the Essex and Colne Estuaries 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.

Other Considerations

Tendring District Council Building Control have no comments at this stage.

No letters of representation have been received.

Conclusion

For the reasons set out above, the scale, design and appearance of the proposal along with the significant impact on neighbouring residential amenity amounts to a form of development that is considered contrary to national and local policies. The application is recommended for refusal together with the lack of a completed UU to secure the planning obligations.

6. Recommendation

Refusal - Full

7. Reasons for Refusal

1. Paragraph 127 of the National Planning Policy Framework (NPPF) confirms that developments should function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, they are sympathetic to local character, including the surrounding built environment, with a high standard of amenity for existing and future users.

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The terrace of properties that the proposal will join is red brick with a slate roof over two storeys. Although the proposed matching materials of red brick and slate roof will tie the buildings together, the amplified scale when compared to the previously approved scheme of 16/0113/FUL will represent an unacceptable form of development that will appear dominant in the street scene. The proposed first floor front terrace wall and glazing which is level with the existing elevation of the row of terraces introduces a new composition which is out of character with the immediate area and appears out of place. In addition, at the front the proposed ground floor private terrace provides an area enclosed by 2 metre high steel fencing which is not supported and breaks from the uniformity of the street scene

whereby the existing small front gardens along Harrow Road are characterised by low garden walls.

The proposed rear 'glass box' flat roof dormer, by way of its design, materials and siting where it would be visible on entering Harrow Road from the west will create a dominant feature in the roof which is unacceptable.

2. The adopted Tendring District Local Plan (2007) "Saved" Policy QL10 seeks to ensure that all new development meets functional needs and that buildings and structures are orientated to ensure adequate daylight, outlook and privacy as well as provision being made for private amenity space. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The proposed roof terrace that fronts Harrow Road has the potential to overlook the amenity area of the flats at 132 Wellesley Road. Although the area doesn't currently appear to be used for sitting out, it is a private area enclosed by fencing and should therefore be protected in this form. It is noted that the submitted section drawing demonstrates the height of the western elevation of the terrace as 1.5 metres which does not provide a sufficient height of screening to mitigate the risk of overlooking in this regard.

The rear dormer will increase the risk of overlooking by the nature of its glass structure which will enable views from the sides down into neighbouring private amenity space and direct views into the rear windows of the flats at Wellesley Road. In addition whilst a normal window will still create a degree of overlooking, what is proposed is a feature that attracts people to look out. It also concerns the perceived overlooking to the neighbours which will be greater from the 'glass box'.

Saved Policy HG9 of the Tendring District Local Plan 2007 seeks to provide a minimum of 50 square metres of private amenity space for a property with one bedroom.

The proposal incorporates two areas suggested to be enjoyed as private amenity space of which 43 square metres is located behind the property at ground floor level and 10 square metres as a first floor terrace at the front of the property. The 50 square metres of space required has been met, however as the two proposed amenity spaces are unconnected they offer limited overall value in terms of an area that is considered usable. The terrace could be used for sitting out, however its north facing enclosed position fronting the road would offer inferior quality amenity. The rear ground floor amenity space does not benefit from any privacy with directly overlooking windows from the flats approximately 2m to the west. In addition the two metre high fence would create an oppressive effect on the occupiers and the small area would be of limited practical use. The proposal would not provide a satisfactory level of private amenity space which is contrary to the aforementioned policies.

3. 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 constitutes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 7000 metres from Essex Estuaries SAC and the Colne Estuary RAMSAR.

New housing development within the ZOI would be likely to increase the number of recreational visitors to Essex and Colne Estuaries 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.

8. Informatives

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.

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| <p>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</p> | <p>YES</p> | <p>NO</p> |
| <p>Are there any third parties to be informed of the decision? If so, please specify:</p> | <p>YES</p> | <p>NO</p> |