



TENDRING DISTRICT COUNCIL

Planning Services

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

APPLICANT: Michael Wagland
5 Naze Court
Old Hall Lane
Walton On The Naze
Essex
CO14 8LJ

AGENT:

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 20/01379/FUL

DATE REGISTERED: 3rd November 2020

Proposed Development and Location of Land:

**Proposed erection of a studio home comprising of studios on ground and first floors, with first floor roof terrace and attic bedroom.
Land adjacent 2 Harrow Road Clacton On Sea Essex**

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 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 (ZoI) 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.

DATED: 26th January 2021

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

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

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.