



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT:	Mr Ronald Cross Ronald Cross Architectural and Planning Services 226A St Johns Road Clacton On Sea Essex CO16 8DE	APPLICANT:	Mr G Duffy Europit Tyres Oxford Road Ltd 94 Oxford Road Clacton On Sea Essex CO15
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TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 19/00167/OUT **DATE REGISTERED:** 8th February 2019

Proposed Development and Location of Land:

**Proposed residential development of 10 flats and 3 commercial units.
88-92 Oxford Road Clacton On Sea Essex CO15 3TH**

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 Parking and Access - The proposal if permitted 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.

Specifically, the number of spaces provided for the residential component would be sub-standard, circulatory spaces for vehicles would be insufficient, the size of individual parking units would not meet standards, it has not been demonstrated that vehicles can access and egress the site in a forward gear and it is likely that the development as proposed would result in an increase in parking pressure onto the public Highway contrary to adopted policies including TR7 Vehicle Parking at New Development.
- 2 Residential Amenity - QL9 and QL10 of the Tendring District Plan 2007 and HG9 of the emerging Local Plan require that occupants of new development enjoy a minimum standard of residential amenity. it has not been demonstrated to the satisfaction of the Council that the proposal will provide adequate gross internal area in accordance with the DCLG's Technical Housing Standards. Furthermore, it has not been demonstrated that the proposal will provide adequate and usable amenity space in accordance with policy requirements.
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 of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) in particular the Hamford Water Ramsar

and SPA site, mitigation measures will need to be in place 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.

- 4 Open Space - Paragraph 54 of the National Planning Policy Framework (2019) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

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".


There is currently a deficit of equipped play/formal open space in Tendring. The nearest play space to the development site is located at Vista road recreation Ground just a short distance over the railway bridge and is classified as a Local Equipped Area for Play.

Any further development in Clacton will increase the current play deficit further. It would be necessary to provide additional play equipment in the area. Due to the close proximity of the play area to this development a contribution towards play is justified and relevant to the planning application. No such contribution has been included within this application nor has any justification for the lack of a contribution and therefore this scheme does not comply with Policy COM6.

- 5 Affordable Housing - The Council's emerging Local Plan requires that 30% of the homes on an eligible site should be delivered as affordable housing equating to 3 flats in total at this site for a plot of 10 units or more in line with the requirements of the NPPF and emerging Policy LP5 Affordable Housing. In this instance the Housing Officer suggests that a financial contribution secured by way of a s.106 agreement is a more practicable method of delivering sustainable affordable housing in the District. A completed s.106 obligation to secure this affordable housing has not been provided prior to the application determination date therefore this has been included in the reasons for refusal.

DATED: 3rd February 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

ER2 Principal Business and Employment Areas

ER3 Protection of Employment Land

ER4 Non-Employment Uses in Employment Areas

HG1 Housing Provision

HG9 Private Amenity Space

LP1 Housing Supply

TR7 Vehicle Parking at New Development

ER31 Town Centre Hierarchy and Uses

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

LP5 Affordable Housing

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 in part due to the failure of the applicant to make provide further information in a reasonable and timely fashion. As such this decision should be considered as informative to the issues at the site in any future planning application.

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.