



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT: Mr Andy Cameron - Wright
Ruffell Cameron
Beaver House
Plough Road Centre
Plough Road
Great Bentley
Essex CO7 8LG

APPLICANT: David Beattie - Beattie
Investments Ltd
71-75 Shelton Street
Covent Garden
London
WC2H 9JQ

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 20/01738/FUL

DATE REGISTERED: 1st December 2020

Proposed Development and Location of Land:

**Change of use from 5 bedroom C3 dwelling to 6 bedroom C4 HMO and associated internal alterations.
7 Victoria Street Dovercourt Harwich 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 the National Planning Policy Framework (2017) confirms that one of the core planning principles is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 requires that the design of new development meets functional needs, including provision of private amenity space, waste storage/recycling facilities and cycle parking.

Saved Policy HG10 of the adopted Tendring District Local Plan (2007) states that proposals for the sub-division of premises into flats and/or bedsits within the defined development boundaries of towns and villages will be permitted provided there is an appropriate private rear amenity area in accordance with Saved Policy HG9. Saved Policy HG9 sets a standard of a minimum of 25m² of private amenity space per unit to be provided communally, which for this development would require an area of at least 150m². The rear yard area is approximately 27m² in size. Given that a further area would need to be found for the storage of residents' bicycles and for waste and recycling bins, to comply with Saved Policy QL10 and EPOA parking standards, the amount of communal outside space available would fall substantially below that sought by Saved Policy HG9. The plans fails to provide any details of how waste or cycle storage could be achieved. Furthermore, the rear courtyard area would be dominated and over-shadowed by the main three-storey building. It would also be partly required for access to, and be overlooked by, the adjacent ground floor units.

Therefore, the proposal for 6 HMO rooms constitute an over-intensive use of the property lacking an adequate amount and quality of communal outside space for the number of residents. Therefore, the scheme would not provide acceptable living conditions for existing and future occupiers in conflict with the aims of the above-mentioned National and Local Plan policy.

- 2 The site lies within Flood Zone 2 defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a medium probability of flooding. The proposal 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 be supported by a site specific Flood Risk Assessment (FRA) and are required to pass the Sequential and Exception Tests.

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. Where the sequential test shows that it is not possible for the development to be located in zones with a lower probability of flooding, the exception test should be applied when appropriate. For the exceptional test to be passed, it must be demonstrated that firstly, the development provides wider sustainability benefits to the community that outweigh flood risk and secondly, that a site-specific flood risk assessment demonstrates that the development is appropriately flood resilient and resistant over its lifetime.

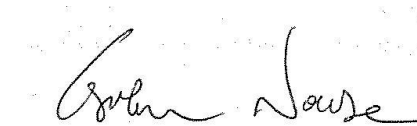
Saved Policy QL3 of the adopted Tendring District Local Plan 2007 supports this approach by stating that the Council will ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, whilst for all proposed sites within 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 not accompanied by the required FRA. The increase in bedrooms and nature of the use will introduce additional residents into a flood risk area. The overriding aim of flooding policy is to direct new development away from areas at highest risk. Officers find no essential reason to locate the proposed HMO in a medium flood risk area and thus the Sequential Test is not passed. Given that finding, there is no requirement to apply the Exception Test. The application of NPPF policies to direct inappropriate development away from areas with the highest risk of flooding and lack of a FRA provides a clear reason for refusing the development.

DATED: 5th March 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

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG9 Private Amenity Space

HG10 Conversion to Flats and Bedsits

EN17 Conservation Areas

TR7 Vehicle Parking at New Development

TR3A Provision for Walking

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP1 Housing Supply

LP3 Housing Density and Standards

LP4 Housing Layout

LP11 HMO and Bedsits

PPL8 Conservation Areas

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Conservation Area Character Appraisals

Houses in Multiple Occupation (HMO) Essex Approved Code of 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 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 <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.