



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT:	Miss Ella Murfet - Turley 8 Quay Court Colliers Lane Stow-cum-Quy CB25 9AU	APPLICANT:	Catesby Estates PLC - C/O Turley Catesby House 5B Tournament Court Edgehill Drive Warwick CV34 6LG
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TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 20/01678/OUT **DATE REGISTERED:** 20th November 2020

Proposed Development and Location of Land:

Proposed development of up to 90 dwellings, including affordable homes, with areas of landscaping and public open space, including points of access and associated infrastructure works.

Plains Farm Plains Farm Close Ardleigh Colchester

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 The application site lies outside of any designated Settlement Development Boundary as defined within the Adopted Tendring Local Plan (2007) and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Saved Tendring District Local Plan (2007) Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL2 of the Publication Draft. This policy direction is similar to Paragraph 117 of the National Planning Policy Framework 2019 (NPPF) that seeks to promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

There are no overwhelming special circumstances or public benefits to the proposal to depart from this core strategic policy of QL1 or SPL2 at this moment in time. To do so would undermine the integrity of the Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). The principles of which are in part to reassure residents and homeowners that unallocated sites such as this Countryside designation, will be protected from such speculative developments.

Paragraph 8 of the (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. Furthermore, Paragraph 124 and 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes on to say that local distinctiveness should be promoted and reinforced. Saved Policy QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) seeks to ensure that development is

appropriate in its locality and does not harm the appearance of the landscape. Outside development boundaries, the policies seek to conserve and enhance the countryside for its own sake.

The site currently represents a clear break in development from the A120 to the north, the introduction of upto 90 dwellings in this location will demonstrably urbanise the immediate character of the rural area. The development would set a harmful precedent for similar forms of future development outside the settlement boundary, the cumulative impacts of which will result in significant and demonstrable harm to the rural and countryside character. The proposed 4m high acoustic fence and minimal landscape buffer shall further erode the rural character failing to conserve or enhance the countryside for its own sake.

The proposal would therefore be contrary to core strategic policy of QL9 and EN1 of the Tendring District Local Plan (2007) and Policy SPL3 and PPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). Finally, the proposal would fail to comply with paragraphs 124 and 127 of the NPPF.

- 2 The National Planning Policy Framework 2019 in paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Policy EN23 of the Tendring District Local Plan (2007) states that proposals for development that would adversely affect the setting of a Listed Building will not be permitted. Emerging Policies SP6, PPL9 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives

In this instance, the proposed development will significantly encroach upon the setting of the Grade II listed Plain Farmhouse, severing the building completely from its agricultural setting and historic function which would adversely affect the way that the building is experienced and understood and impacting on the way that it relates to the surrounding landscape. The development would result in harm to the significance of a designated heritage asset of national significance, with the harm being categorised as being 'less than substantial'.

The local planning authority has considered the public benefits associated with the development but has concluded that these would not outweigh the harm caused to the significance of designated heritage assets. This is chiefly due to the fact that the site is not allocated for housing in either the adopted or emerging Local Plans. Due to the positive housing figures in the Local Authority, there is no reason to assess this site exceptionally, a site that ultimately only offers moderate levels of affordable housing.

Therefore, the proposed development would conflict with Policy EN23 of the Adopted Tendring Local Plan (2007) and PPL9 of the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Also, Paragraph 196 of the NPPF and finally, the development would fail to comply with Section 66(1) of the Listed Buildings and Conservation Areas Act 1990, which requires special regard to be had to the desirability of preserving the setting or any features of special architectural or historical interest that the building has.

- 3 The proposal seeks outline planning permission for up to 90 dwellings and is contrary to the provisions of The National Planning Policy Framework, Saved Policies COM6, COM26, TR3a, TR5 and HG4 of the Adopted Tendring District Local Plan (2007) and Draft Policies LP5, PP12, HP1 and HP5 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The National Planning Policy Framework states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable

through the use of conditions or planning obligations. Planning obligations should only be sought where they meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

Saved Policy HG4 of the Tendring District Local Plan (2007) requires up to 40% of new dwellings on residential schemes of 5 or more units to be provided in the form of affordable housing to meet the needs of people that are unable to access property on the open market. Draft Policy LP5 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017), which is based on more up-to-date evidence of housing need and viability, requires for developments of 11 or more dwellings, the Council expect 30% of new dwellings to be made available to Tendring District Council or an alternative provider to acquire at a discounted value for use as affordable housing, or as an alternative, the Council will accept a minimum of 10% if new dwellings are to be made available alongside a financial contribution toward the construction or acquisition of property for use as affordable housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement. The Council has identified that there is a high demand for affordable housing in the area. There is therefore a need for affordable housing to be delivered on site.

Policy HP1 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) states that the Council will work with others, including developers, to improve the health and wellbeing of residents by providing access to high quality health care services. The NHS has identified that there is insufficient capacity at local primary healthcare facilities and a financial contribution is sought to increase capacity to meet the increased demand arising from the development.

Saved Policy COM26 states where necessary planning permission will only be granted for residential developments of 12 or more dwellings if land and/or financial contributions are made to provide to mitigate the impact of the development on the education system. Draft Policy PP12 states planning permission will not be granted for new residential development unless the individual or cumulative impacts of development on education provision can be addressed, at the developer's cost, either on-site or through financial contributions towards off-site improvements. ECC Education confirm that children from the development will need to be provided with transport to school and seek a proportionate financial contribution that would be based on the number of qualifying dwellings to mitigate the impacts of the proposed dwellings.

Saved Policy COM6 requires new housing development in excess of 1.5 hectares to make provision for recreational Open Space on-site within new developments. The applicant proposes the provision of Public Open Space on the site, in the form of amenity greenspace; and an equipped play area. The quantum, setting out and future management of the Open Spaces need to be secured to ensure that the needs of future residents are met and that the mitigation and benefits promoted by the applicant are secured.

Saved Policy TR5 states major new developments should provide appropriate facilities for cyclists and that this should include links to the existing cycle networks. Policy TR3a states that where practicable all developments will be required to link with existing footpath and provide convenient, safe, attractive and direct routes for walking and that where appropriate, development should also improve links to and between pedestrian routes and public transport facilities, and support pedestrian priority measures. The Highway Authority have identified a need for improved cycle and pedestrian infrastructure to provide safe and useable links to connect to the existing cycle network and to nearby facilities.

A completed Section 106 obligation to secure the relevant provision of Affordable

Housing, Public Open Space and Off-Site Highway Works and financial contributions towards improvements to cycling infrastructure, primary healthcare, and school transport has not been provided and the application is therefore contrary to the above policies.

- 4 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.

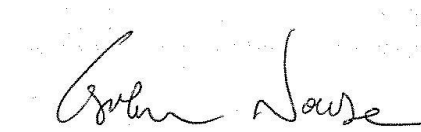
This residential development lies within the Zone of Influence for Essex Estuaries SAC, Colne Estuary SPA and Ramsar, Stour and Orwell Estuaries SPA and Ramsar, Dengie SPA and Ramsar, and Blackwater Estuary SPA and Ramsar. Stour and Orwell Estuaries SPA and Ramsar are the closest European sites and are located around 6.8km from the application site. New housing development within the Zol would be likely to increase the number of recreational visitors to these designated sites; and, in combination with other developments it is likely that the proposal would have significant effects on the designated sites. Mitigation measures must therefore be secured prior to occupation.

A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast 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 and Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

DATED: 1st April 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

QL2 Promoting Transport Choice

QL3 Minimising and Managing Flood Risk

QL9 Design of New Development

- QL10 Designing New Development to Meet Functional Needs
- QL11 Environmental Impacts and Compatibility of Uses
- QL12 Planning Obligations
- HG1 Housing Provision
- HG3A Mixed Communities
- HG4 Affordable Housing in New Developments
- HG6 Dwelling Size and Type
- HG7 Residential Densities
- HG9 Private Amenity Space
- COM1 Access for All
- COM2 Community Safety
- COM6 Provision of Recreational Open Space for New Residential Development
- COM 9 Allotments
- COM21 Light Pollution
- COM22 Noise Pollution
- COM23 General Pollution
- COM26 Contributions to Education Provision
- COM29 Utilities
- COM31A Sewerage and Sewage Disposal
- EN1 Landscape Character
- EN6 Biodiversity
- EN6A Protected Species
- EN6B Habitat Creation
- EN11A Protection of International Sites European Sites and RAMSAR Sites
- EN11B Protection of National Sites SSSI's, National Nature Reserves, Nature Conservation Review Sites, Geological Conservation Review Sites
- EN12 Design and Access Statements
- EN13 Sustainable Drainage Systems
- EN23 Development Within the Proximity of a Listed Building
- EN29 Archaeology

- ER3 Protection of Employment Land
- TR1 Transport Assessment
- TR1A Development Affecting Highways
- TR2 Travel Plans
- TR3A Provision for Walking
- TR4 Safeguarding and Improving Public Rights of Way
- TR5 Provision for Cycling
- TR6 Provision for Public Transport Use
- TR7 Vehicle Parking at New Development

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

- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Strategy for North Essex
- SP5 Infrastructure & Connectivity
- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- SP4 Providing for Employment & Retail
- SP6 Place Shaping Principles
- HP1 Improving Health and Wellbeing
- HP3 Green Infrastructure
- HP4 Safeguarded Local Greenspace
- HP5 Open Space, Sports & Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PP12 Improving Education and Skills
- PPL1 Development and Flood Risk
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL7 Archaeology

PPL9 Listed Buildings

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

CP3 Improving the Telecommunications Network

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good 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 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 reasons 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.