



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT:	Miss Mollie Foley - Stanfords The Livestock Market Wyncolls Road Colchester CO4 9HU	APPLICANT:	Mr John Askew Spring Lodge Bromley Road Frating Colchester Essex CO7 7DR
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TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 20/01491/OUT **DATE REGISTERED:** 6th November 2020

Proposed Development and Location of Land:

Proposed erection of one dwelling and associated parking (all matters reserved).

Land adjacent 4 Boulton Cottages Frating Road Great Bromley

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 Paragraph 11 of the National Planning Policy Framework 2019 (NPPF) states that plans and decisions should apply a presumption in favour of sustainable development. For plan-making this means that plans should positively seek opportunities to meet the development needs of their area. Strategic policies should, as a minimum, provide for objectively assessed needs for housing. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay. Paragraph 12 of the NPPF states that presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted.

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, 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 has now formally adopted Section 1 part of the development plan which carries 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.

For the purposes of the determination of this application the Council can currently demonstrate that a 5 year housing land supply exists. Engaging the presumption in favour of sustainable development under paragraph 11d) of the NPPF does not apply in this instance. The policies for the delivery of housing are considered up-to-date and the application must therefore be determined in accordance with Paragraph 11 c) of

the NPPF, thus in accordance with the development plan.

The application site lies outside of any Settlement Development Boundary as defined within both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Regardless of the proximity of the site in relation to services and amenities, there is no longer a requirement to consider such sites due to their location outside of the defined settlement development boundaries as the planned growth for the District to meet housing need has been established. The adverse impacts of the proposal both on the character of the locality and on the Council's ability to manage growth through the plan-led approach, are not outweighed by any benefits or other material considerations. The development is unnecessary and there are no public benefits that might warrant the proposal being considered in an exceptional light. The proposal is therefore contrary to the aims of paragraph 11c) of the NPPF and contrary to the development plan Saved Policy QL1 and emerging Policy SP1.

- 2 Saved Policy EN1 relates to landscape character and states, inter alia, that development control will seek in particular to conserve features which contribute to local distinctiveness, which includes important hedgerows and trees. In terms of the impact of the development proposal on the local landscape character it is important to recognise the existing qualities and value of the landscape and to quantify the potential impact of the proposed development on the local landscape.

On, or close to, the southern boundary of the application site there several trees that feature prominently in the street scene and make a positive contribution to the public realm. The trees with the greatest amenity value are a single Field Maple and two Oaks which are subject of Tendring District Council Tree Preservation Order Ref: 21/02/TPO affording them formal legal protection.

It is clear that the position of the proposed dwelling would be within the root protection area (RPA) of T2 -Oak. Additionally the canopy of the tree would likely have a significant adverse impact on the use and enjoyment of the garden from overshadowing. The degree to which the RPA constrains the site suggests that a satisfactory layout cannot be achieved.

These issues are matter of principle and the application fails to demonstrate that the site can accommodate the proposed dwelling without resulting in harm to the mature, protected trees present on the boundary of the site. Consequently, the development is contrary to the aforementioned policy.

- 3 Paragraph 8 of the National Planning Policy Framework 2019 (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 127 of the NPPF requires that development should respond to local character and history, and reflect the identity of local surroundings. It goes onto 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.

The application site lies between existing dwellings either side. Boulton Cottages appear as a standalone group of dwellings of a character that differ from the other neighbouring properties. The site relates closely to Boulton Cottages being sited directly adjacent to number 4 and separated from Marks Farm to the south by trees and vegetation.

In street scene terms, the development would appear closely related to Boulton Cottages. The introduction of a detached dwelling on this site, together with its

forward siting to avoid the root protection areas of the protected trees on the site would appear at odds in its immediate setting. The development would be prominent, out of keeping and harmful to the character of the locality. Furthermore, the development would represent an unplanned advance of urbanisation into the countryside eroding the semi-rural character of the locality.

The application fails to demonstrate that the site can appropriately accommodate the development without causing harm to the character and appearance of the area and is therefore contrary to the above-mentioned national and local plan policies.

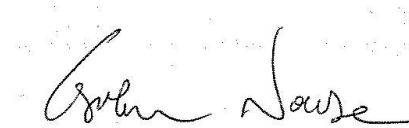
- 4 Paragraph 127 of the National Planning Policy Framework 2019 states that planning should always seek to create places with a high standard of amenity for existing and future users. Saved Policy QL10 of the adopted Tendring District Local Plan (2007) states that permission will only be granted if buildings and structures are orientated to ensure adequate daylight and outlook and provision is made for functional needs including private amenity space. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives.

Although the site can accommodate a private amenity space of a size that accords with policy requirements, the protected trees would be a dominant feature in the private amenity space. The canopy of T2 - Oak of Tendring District Council Tree Preservation Order Ref: 21/02/TPO would have a significant adverse impact on the use and enjoyment of the garden of the proposed dwelling and potentially on the amount of natural light reaching the windows of the dwelling.

The development would therefore create a poor standard of amenity for future occupants of the proposed dwelling contrary to the aims of the aforementioned national and local policies.

DATED: 15th 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

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

COM6 Provision of Recreational Open Space for New Residential Development

EN1 Landscape Character

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SPL1 Managing Growth

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

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 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.