

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 13TH APRIL, 2021 AT 6.00 PM**

Present:	Councillors White (Chairman), Bray (Vice-Chairman), Alexander, Allen, Cawthron, Casey, Fowler, V Guglielmi and Harris
Also Present:	Councillors Coley and G Guglielmi
In Attendance:	Lisa Hastings (Assistant Director, Governance), Graham Nourse (Assistant Director, Planning), Joanne Fisher (Planning Solicitor), Trevor Faulkner (Planning Officer), Jacob Jaarsmar (Agency Planning Team Leader), Nick Westlake (Planning Officer), Alison Cox (Planning Officer), Keith Durran (Committee Services Officer), Debbie Bunce (Legal and Governance Administration Officer), Emma Haward (Leadership Support Assistant).
Also in attendance:	Chris Stoneham (Strategic Development Engineer, ECC Highways Department)

112. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillor Placey, with Councillor Allen substituting.

113. MINUTES OF THE LAST MEETING

It was moved by Councillor Bray, seconded by Councillor V Guglielmi and **RESOLVED** that the minutes of the last meeting of the Committee held on Wednesday 17 March 2021 be approved as a correct record.

114. DECLARATIONS OF INTEREST

Councillor Harris declared a personal interest in **Planning Application 20/00822/FUL – THE LAURELS PARSONAGE LANE TENDRING CLACTON ON SEA** due to being the Ward Member. He informed the Committee that he was not pre-determined and that he would therefore take part in the Committee's deliberations.

Councillor V Guglielmi declared a personal interest in **Planning Application 20/01385/FUL – 2 HIGH STREET MANNINGTREE CO11 1AD** due to being the Ward Member. She informed the Committee that she was not pre-determined and that she would therefore take part in the Committee's deliberations.

115. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none on this occasion.

116. A.1 - PLANNING APPLICATION 20/00822/FUL - THE LAURELS, PARSONAGE LANE, TENDRING CO16 0DE

Councillor Harris had earlier in the meeting declared a personal interest in this application as he was the Ward Member. He had informed the Committee that he was not pre-determined and therefore took part in the Committee's deliberations.

Members were reminded that this application had been originally submitted to the Planning Committee at the request of Councillor Harris (who had acted on behalf of Tendring Parish Council) by virtue, in their considered opinion of the site: *“being ‘backfill’ development, the site was outside the settlement boundary; the site was an unsustainable development with insufficient infrastructure; overdevelopment, the development would have led to unacceptable disturbance to neighbours; unacceptable access and highways issues; and there was no proven need for this type of property in an area that had already seen significant development.”*

The Planning Committee on its first consideration of this application had deferred a decision in order to seek clarification on matters regarding drainage and other relevant matters.

The Committee was reminded that the application related to what was essentially the rear garden area of The Laurels, Parsonage Lane, Tendring. The site was roughly ‘L’ in shape and approximately 0.2 hectares in size. The Laurels was one of a variety of dwelling types in the locale which comprised of detached and terraced two-storey, chalet and single-storey bungalows. The Laurels was unique in terms of its rear garden which was of a significant size in comparison to any other dwelling in the settlement.

The site was centrally located within the Tendring Green 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. The principle of residential development in this location was therefore considered to be acceptable subject to detailed design and impact considerations.

The application sought full planning permission for the erection of 3 detached three-bedroom detached single-storey bungalows, served by way of a single access providing access to a parking/turning area. The dwellings would be provided with surface parking and secure cycle-storage.

Members were informed that the proposal would not result in the loss of an area of public open space or safeguarded green space. The proposed bungalows were of a scale, design and appearance which was comparable with other bungalows in the vicinity. The retention of the brick-built garage provided a significant degree of screening from the public domain. The proposal would result in the loss of ten trees in total and as the site did not benefit from any protection in the form of preservation orders, as such any trees could be removed without any consent required from the Local Planning Authority. Two of those trees were damaged/dangerous having limited life expectancy, five were small fruit trees and the remaining three were not mature or established specimens – all mature, established trees were to remain and offer a significant verdant backdrop to the site. The proposed dwellings were single storey and located a sufficient distances from neighbouring dwellings so as not to result in a material loss of residential amenities. The new dwellings and retained dwelling were to be served by private garden areas and parking that accorded with standards.

The proposed development was in a location supported by Local Plan policies and would not result in any material harm to the character of the area and/or residential amenities.

However, the Committee was now informed that, notwithstanding its earlier recommendation, and following further consideration of additional evidence, County Highways had now recommended that the application be refused on highway safety grounds by virtue of the scheme being unable to demonstrate appropriate highway visibility splays onto Parsonage Lane.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of refusal for the reason(s) stated in section 8.1 of the Officer report.

At the meeting, an oral presentation was made by the Council's Planning Officer (AC) in respect of the application.

An update sheet had been circulated to the Committee prior to the meeting with details of:

- (1) Additional comments from ECC Highways; and
- (2) Additional comments from third parties.

Ellie Kellett, a local resident, spoke against the application.

Parish Councillor Ted Edwards, representing Tendring Parish Council, spoke against the application.

Jack Wilkinson, the agent acting on behalf of the applicant, spoke in support of the application.

Matters raised by a Committee member:-	Officer's response thereto:-
What has changed since the change of recommendation?	Planning Officer (AC) confirmed that the information raised by the Highways was raised after the request from the Committee (as part of the work to alleviate the concerns) resulted in the preparation of the referenced map indicating Highways land.
Seven considerations are required for back-land development. Does this application meet all conditions?	Planning Officer confirmed that this application does meet all seven considerations, ultimately being from a subjective perspective.
Can Highways confirm that the measurements and records are accurate?	Officer (ECC) confirmed that measures were from a definitive record however; the visibility display did not extend to the boundary.
Where the application is in a settlement boundary in the current local plan – is it considered sustainable?	Planning Officer (AC) confirmed that Tendring Green which is outside the defined settlement boundary is considered sustainable subject to meeting criteria.
Which Local Plan has suitable weight for the application?	Planning Officer (TF) referred to paragraph 1.6 of the agenda pack regarding the comparison of developments and sustainability. The current adopted Local Plan takes precedent.
What does it mean to have a sustainable location?	Planning Officer (AC) confirmed that a site where there is access to facilities, employment, education etc. with no entire reliance on a

vehicle is classed as sustainable.

Following discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor Alexander and **RESOLVED** that the Assistant Director (Planning) be authorised to refuse planning permission for the development, for the following reasons:-

1 The proposal failed to demonstrate that a safe means of access to the site could be achieved, by virtue of a 2.4m x 33m visibility splay to the site access not being deliverable within the limits of the public highway and/or land in the control of the applicant. For this reason the application was considered to be contrary to Paragraph 108 of the NPPF which sought to ensure that safe and suitable access to a development site could be achieved for all users and contrary to saved Policy QL10 and TR1a of the adopted Tendring District Local Plan 2007 and emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

2 Saved Policy HG13 stated that proposals for the residential development of backland sites would only be approved where it meets specific criteria, detailed as:- (i) the site lies within a defined settlement development boundary and does not comprise land allocated or safeguarded for purposes other than a residential use; (ii) where a proposal includes existing private garden land which would not result in less satisfactory access or off-street parking arrangements, an unacceptable reduction in existing private amenity space or any other unreasonable loss of amenity to existing dwellings; (iii) a safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will be discouraged; (iv) the proposal does not involve "tandem" development using a shared access; (v) the site does not comprise an awkwardly shaped or fragmented parcel of land likely to be difficult to develop in isolation or involve development which could prejudice a more appropriate comprehensive development solution; (vi) the site is not on the edge of defined settlements and likely to produce a hard urban edge or other form of development out of character in its particular setting; and (vii) the proposal would not be out of character with the area or set a harmful precedent for other similar forms of development. The proposal was considered to fail to comply with the following criterion:-

ii) Where a proposal includes existing private garden land which would not result in less satisfactory access or off-street parking arrangements, an unacceptable reduction in existing private amenity space or any other unreasonable loss of amenity to existing dwellings

iii) A safe and convenient means of vehicular and pedestrian access/egress can be provided that is not likely to cause undue disturbance or loss of privacy to neighbouring residents or visual detriment to the street scene. Long or narrow driveways will be discouraged

The proposal would result in a less than satisfactory access/egress, used a shared access and was likely to result in an unreasonable loss of amenity to existing dwellings by reason of headlight overspill and increased vehicular noise adjacent the common boundary, for this reason the proposal was considered contrary to criterion ii and iii of Saved Policy HG13 of the adopted 2007 Local Plan and emerging Policy LP8 of the

Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 and the aims of the NPPF.

3 Saved Policy QL11 required all new development to be compatible with surrounding land uses and minimise any adverse environmental impacts. Development should not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties and the development (including any additional road traffic arising, would not have a materially damaging impact on air, land, water (including ground water), amenity, health or safety through noise, smell, dust, light, heat, vibration, fumes or other forms of pollution or nuisance).

The proposal was likely to have a materially damaging impact on the amenities of occupiers of nearby properties by reason of in an unreasonable loss of amenity to existing dwellings by reason of vehicular noise and fumes and headlight overspill. For this reason the proposal was considered contrary to Saved Policy QL11 of the adopted 2007 Local Plan and the aims of the NPPF.

117. A.2 - PLANNING APPLICATION 20/01385/FUL - 2 HIGH STREET, MANNINGTREE

Councillor V Guglielmi had earlier in the meeting declared a personal interest in this application as she was a local Ward Member. She had informed the Committee that she was not pre-determined and therefore took part in the Committee's deliberations.

Members were advised that the application had been referred to the Planning Committee by the Councillor G Guglielmi due to his concerns about the loss of the commercial premises in the 'Primary and main Shopping Frontage of Manningtree High Street'.

It was reported that the site was located inside the Development Boundary for Manningtree 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.

The host building was a Grade II Listed Building and former bank located in the Town Centre of Manningtree and within Manningtree Conservation Area. Planning permission had been obtained in 2017 for a retail unit at ground floor facing the High Street, with six flats making up the rest of the building and a separate dwelling-house to the rear.

The host building was not within the Primary Shopping Frontage area as designated by policy ER33.

Members were informed that a similar application to the current application had been submitted and refused in 2020 which had also looked to convert the ground floor retail unit to a residential use. The four reasons of refusal on that occasion had been:

- Poor levels of residential amenity internally and externally.
- Development proposed is within a Flood Risk 3 with Flood Risk implications.
- Unacceptable impact on the Listed Building and the Conservation Area.
- Lack of RAMS payment in accordance with the habitat regulations.

However, Officers considered that the current application had overcome those concerns.

The Committee was advised that the proposed development would not result in any material harm to the character of the area, residential amenities or highway safety. The application had therefore been recommended for approval by Officers subject to conditions and in conjunction with a completed legal agreement.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Planning Officer (NW) in respect of the application.

An update sheet had been circulated to the Committee prior to the meeting with confirmation in writing that the Environment Agency on 12 April 2021, had removed their objection to the application, with the suggested Planning Condition changes set out below:

"3 The development hereby approved shall be carried out in its entirety as shown on the submitted plans. One residential unit may be occupied before works to the front facade of the building and new shop front have been installed and the works carried out in accordance with the schedule agreed within application 20/01722/FUL.

Reason - The development has been permitted due to the significant benefits that would result for the listed building, and it is essential that the works are carried out as a package of improvements in the interest of the character and setting of the listed building.

15 There shall be no public access to the cellar and it shall not be used for retail sales or residential habitation. The cellar is for storage purposes for the ground floor flat only.

Reason - In the interest of public and residential safety as the site falls within a flood-risk zone and the cellar could be subject to rapid inundation in the event of flooding.

22. Copies of the amended 'Flood Warning and Evacuation Plan' for 2 High Street, Manningtree, dated March 2021, shall be given to each new residential residing at the development.

Reason - In the interest of public and residential safety as the site falls within a flood-risk zone and the cellar could be subject to rapid inundation in the event of flooding."

Parish Councillor Ruth Stocks, representing Manningtree Town Council, spoke against the application.

Councillor G Guglielmi, a local Ward Member, spoke against the application.

Councillor Coley, a local Ward Member, spoke against the application.

Mark Edgerley, the agent acting on behalf of the applicant, spoke in support of the application.

Matter raised by a Committee member:-	Officer's response thereto:-
In reference to parking facilities, why was parking mentioned in the original application and not in the most recent application?	Planning Officer confirmed that this was not a reason for refusal. The car park mentioned is locked overnight. The new application reduced the demand for parking in the area.
Cycling provision available for all properties?	A condition had been put forward for provision for cycling and subsequently a discharge of the condition relating to this. There are no outdoor amenity space, however, there is a basement for storage purposes.

Following discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor Harris and **RESOLVED** that, contrary to the Officers' recommendation of approval, the Assistant Director (Planning) be authorised to refuse planning permission for the development, for the following reasons:-

1 The National Planning Policy Framework 2019 (NPPF) at paragraph 127 stated that planning decisions should ensure that developments would function well and add to the overall quality of the area. Furthermore, Paragraph 108 of the NPPF sought to ensure that safe and suitable access to a development site could be achieved for all users.

Saved Policy TR7 said for residential development within town centres and for all non-residential development, the adopted car parking standards would be applied. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 stated that planning permission would only be granted if amongst other things; access to the site was practicable and the highway network would be able to safely accommodate the additional traffic the proposal would generate and the design and layout of the development provided safe and convenient access for people. The sentiments of this policy were carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The current Essex County Council Parking Standards 2009 set out the requirements for residential development, two bedroom dwelling requires 2 parking spaces. In this case, no parking spaces were provided.

The proposed development failed to provide sufficient off street parking facilities for the proposed dwellings in line with the current Parking Standards. The proposal would therefore lead to additional vehicles being left parked in the surrounding streets or adjoining highway causing conditions of highways safety, obstruction and congestion. The proposed development therefore failed to provide car parking facilities sufficient to satisfy the likely demands of the site, thereby contrary to Saved Policy TR7, Emerging Policy SPL3, Essex County Council Parking Standards (2009), and Saved Policy QL10 (vi) which required new development to be designed to meet its functional needs.

Furthermore, the National Planning Policy Framework stated 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 met 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 TR1a stated proposals for development affecting highways would be considered in relation to the road hierarchy to reducing and preventing hazards and inconvenience to traffic and to the effects on the transport system including the physical and environmental capacity to accommodate the traffic generated. The Highway Authority identified a need for a financial contribution of £2,000 (index linked) towards the introduction of any future residents parking scheme for the surrounding roads subject to any scheme being put forward by the North Essex Parking Partnership.

A completed unilateral undertaking or Section 106 legal agreement to secure the relevant contributions towards a possible future residents parking scheme had not been provided and the application was therefore contrary to saved policy TR1a of the adopted Tendring District Local Plan 2007.

2 Paragraph 85 of the National Planning Policy Framework (2019) stated that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

Policy ER3 of the Adopted Tendring Local Plan 2007 stated that land in, or allocated for employment use would normally be retained for that purpose, and its change of use would only be permitted if the applicant could demonstrate that it was no longer viable or suitable for any form of employment use. Within this, the applicant should have either submitted evidence of a sustained but ultimately unsuccessful marketing exercise, undertaken at a realistic asking price or demonstrate that the land was inherently unsuitable and/or not viable or suitable for any form of employment use.

The proposal would have resulted in the loss of a town centre employment use within a town centre location. The proposal would see the change of use of an existing A1/A2/B1a use to a C3 residential use.

The submitted marketing information showed that the site had been marketed for Retail only between the dates of 9th October 2018 until 31st January 2020. However, since September 1st 2020 a new use class had been introduced, Class E. This new use class allowed for a far wider number of possible uses for the ground floor unit. The fact that a marketing campaign had not taken place including this wider number of possible uses under Class E demonstrated a significant deficiency within the current marketing campaign submitted with this application.

It was therefore considered that the information supplied had failed to demonstrate that the site had been marketed to its fullest potential and had therefore failed to demonstrate the site was inherently unsuitable or not viable for any form of employment use. The proposal therefore failed to accord with saved policy ER3 of the Tendring District Local Plan 2007 and Paragraph 85 of the National Planning Policy Framework, to the detriment of the local economy and reducing the commercial capacity of the town centre location.

IMPORTANT INFORMATION :-

The local planning authority considered that the following policies and proposals in the development plan were relevant to the above decision:

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
ER3 Protection of Employment Land
ER31 Town Centre Hierarchy and Uses
ER33 Non-retail Uses Within Primary Shopping Frontages
HG1 Housing Provision
HG3 Residential Development Within Defined Settlements
HG9 Private Amenity Space
COM6 Provision of Recreational Open Space for New Residential Development
EN6 Biodiversity
EN6A Protected Species
EN11A Protection of International Sites European Sites and RAMSAR Sites
EN12 Design and Access Statements
EN17 Conservation Areas
EN22 Extensions or Alterations to a Listed Building
TR7 Vehicle Parking at New Development
SP1 Presumption in Favour of Sustainable Development
SP6 Place Shaping Principles
SPL2 Settlement Development Boundaries
SPL3 Sustainable Design
PP3 Village and Neighbourhood Centres
PPL1 Development and Flood Risk
PPL8 Conservation Areas
PPL9 Listed Buildings
CP1 Sustainable Transport and Accessibility
EN23 Development Within the Proximity of a Listed Building
NPPF National Planning Policy Framework February 2019
National Planning Practice Guidance
Tending District Local Plan 2007
Tending District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

Positive and Proactive Statement

The Local Planning Authority 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 were so fundamental to the proposal that it had not been possible to negotiate a satisfactory way forward and due to the harm which had been clearly identified within the reasons for the refusal, approval was not possible.

The meeting was declared closed at 8.53 pm

Chairman