



TENDRING DISTRICT COUNCIL

Planning Services

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

AGENT:	Miss Molie Foley - Stanfords The Livestock Market Wyncolls Road Colchester CO4 9HU	APPLICANT:	C Rowland and R Murfitt 59 Harwich Road Lawford Manningtree Essex CO11 2LP
---------------	--	-------------------	---

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 21/00783/OUT **DATE REGISTERED:** 27th April 2021

Proposed Development and Location of Land:

**Proposed erection of one dwelling.
Land adjacent 59 Harwich Road Lawford Manningtree Essex**

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 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise as set out in (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). The 'development plan' for Tendring comprises, in part, the 'Saved' policies of the 2007 Local Plan. Paragraph 213 of the Framework allows local planning authorities to give due weight to adopted albeit outdated policies, according to their degree of consistency with the policies within it.

Section 1 of 2013-2033 Local Plan was adopted on the 26th January 2021 and therefore forms part of the 'development plan'. The adoption confirms that the Councils 'objectively assessed housing need' of 550 dwellings per annum has been found to be 'sound' and there is no housing land supply shortfall; the Council is currently able to report a surplus of housing land supply well in excess of the 5 year requirement. Although the Framework requires that Councils significantly boost the supply of housing, this substantially tempers the amount of weight that can reasonably be attributed to the benefit of further new housing. This is particularly relevant in the consideration of proposals for additional dwellings that fall outside of identified settlement development boundaries.

Policy SP3 (Spatial Strategy for North Essex) of the 2013-2033 Local Plan states, amongst other things, that development will be accommodated within or adjoining settlements, according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area. New housing development should be focused towards the larger urban areas and to within settlement development boundaries. This is consistent with the Framework's objectives for achieving sustainable development through a plan-led approach that focuses development to locations which are or can be made sustainable, limiting the need to travel and offering a genuine choice of transport modes. Accounting for the current housing land supply situation, there is no requirement to consider housing growth outside of these boundaries as the planned growth for the District to meet housing need has been established.

Planning permission was granted, earlier this year, for a dwelling adjacent to the application site under planning reference 20/01630/OUT for the erection of one dwelling. However, this was an 'on balance' decision given the quantum of glasshouses (in terms of site coverage) agreed to be removed through condition as part of the permission to allow for their replacement with a single dwelling. In addition, it was officer's view that the placement of one dwelling within the proposed application site area would ensure that an appropriate gap along the Harwich Road frontage could be maintained and in turn help retain the sporadic nature of development along this section of Harwich Road. However, the introduction of a dwelling in this location tilts the planning judgement and would act to, incrementally, lead to a more intensive and urbanising effect. In particular, this would lead to a more continuous and unbroken built up street frontage, which would be out of character with the openness of the countryside in this rural location.

In applying the NPPF's presumption in favour of sustainable development, 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. The development is an unnecessary intrusion into the countryside creating visual harm and there are no public benefits that might warrant the proposal being considered in an exceptional light. The proposal is therefore contrary to the settlement hierarchy and housing policies of the development plan.

- 2 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.

The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zoi) being approximately 1.8km away from Stour and Orwell Estuaries RAMSAR and SPA.

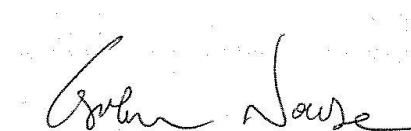
New housing development within the Zoi would be likely to increase the number of recreational visitors to the Stour and Orwell Estuary and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured 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 and SP2 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.

DATED: 24th June 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

Adopted Tendring District Local Plan 2007 (part superseded)

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

HG1 Housing Provision

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

EN1 Landscape Character

EN5 Areas of Outstanding Natural Beauty (AONB's)

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

COM6 Provision of Recreational Open Space for New Residential Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

SPL1 Managing Growth

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Strategy for North Essex
- SP3 Meeting Housing Needs
- SP4 Providing for Employment & Retail
- SP7 Development and Delivery of New Garden Communities in North Essex

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 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 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.