



AGENT: Raymond Stemp Associates
Weston Business Centre
Hawkins Road
Colchester
CO2 8JX

APPLICANT: Mr Keith Jeeves
The Rose
63 The Street
Kirby Le Soken
Frinton On Sea
Essex
CO13 0EG

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 22/01342/FUL

DATE REGISTERED: 5th October 2022

Proposed Development and Location of Land:

Proposed demolition of all buildings and structures on the site, the closure of the existing access, the construction of two 3 bedroom chalet-style bungalows and two double garages, formation of a new access and landscaping.

The Rose 63 The Street Kirby Le Soken Frinton On Sea

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 The site is currently in use as a single traveller's pitch which allows for two static caravans, a tourer and associated dayroom and stable buildings. This proposal relates to the construction of 2 detached residential properties on the site which are governed by a different set of national and local planning policies.

Policy SP3 of Section 1 of the 2013-2033 Local Plan sets out the spatial strategy for North Essex and directs growth towards existing settlements. The application site lies outside of a defined settlement boundary in the 2013-2033 Local Plan, with the nearest settlement of Kirby-le-Soken located approximately 320 metres to the east. The proposed development would therefore extend beyond the area planned to provide growth for this settlement.

Access from the site to the centre of the village is poor. It is a relatively long walk along a busy and narrow road with no footpaths on either side. Furthermore, there are no bus stops easily accessible to the site and, in addition, Kirby-le-Soken is in the lowest tier of four tiers of defined settlement in the 2013-2033 Local Plan and it only provides a limited range of facilities and services. Therefore, the site provides poor access to facilities and services, and it is likely that the vast majority of journeys to and from the site would be by car. Consequently, the site is in an unsuitable location for new dwellings, with inadequate access to local services.

Therefore, in view of the housing land supply position, the Council does not need to look beyond identified settlements to meet its housing requirement. The proposal therefore gives rise to harm through failing to comply with a statutory plan-led approach to the

location of future housing.

In view of this, the proposal's conflict with policy gives rise to a significant degree of harm. The spatial strategy of Policy SP3 and place shaping principles of Policy SP7 reflect the Framework's sustainable development objectives and the proposal's conflict with both is given full weight. The principle of development is therefore not acceptable in this location.

- 2 Paragraph 130 of the Framework requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.

Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Policy SPL3 of Section 2 of the 2013-33 Local Plan also requires, amongst other things, that the development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.

Adopted Policy PPL3 states the Council will protect the rural landscape and refuse planning permission for any proposed development which would cause overriding harm to its character or appearance.

Policy PPL8 of the Tendring District Local Plan 2013-2033 seeks to ensure that any new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area.

Paragraph 197 c) of the NPPF also outlines that local planning authorities should take into account the desirability of new development making a positive contribution to local character and distinctiveness.

The proposal site is within the setting of the Kirby Le-Soken Conservation Area and marks the entrance to the village from the west. The village comprises traditional small vernacular buildings, typically 1.5 storey, dating from the sixteenth to the nineteenth century, lining The Street and bounded by taller hedgerows and grass verges, some fronting the road and others set slightly back.

The proposed dwellings are large in footprint and elevation, being effectively 2 storeys instead of 1.5, and as a result are bulky in mass and would be overly prominent within the street scene. Moreover, hipped roofs are not a common feature within this section of the Conservation Area and contribute to the bulky appearance of the proposed dwellings. Furthermore, the roof is fitted on both elevations with a number of rooflights, a non-traditional type of fenestration which are not considered to be in keeping with the rural character of the setting of Kirby Le-Soken.

As per paragraph 206 of the NPPF, Local planning authorities should look for opportunities for new development within the setting of Conservation Areas to enhance or better reveal their significance. In their current iteration, the proposals are not considered to preserve those elements of the setting that make a positive contribution to the asset, or which better reveal its significance.

The development would therefore fail to make a positive contribution to local character and distinctiveness, appear out of keeping in this edge of settlement location and harm views from within and into the adjacent Kirby-le-Soken Conservation Area. The development is therefore considered to be contrary to the aims and aspirations of the aforementioned national and local planning policies.

- 3 Paragraph 110 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users, whilst Paragraph 104 requires that streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

Adopted Policy CP1 (Sustainable Transport and Accessibility) of the Tendring District Local Plan 2013-2033 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people.

From a highway and transportation perspective the impact of the proposal is not acceptable because the proposal would lead to the creation of a substandard access onto The Street, (secondary distributor) where the lack of suitable visibility from the proposed access for both emerging and approaching vehicles would result in an unacceptable degree of hazard to all road users to the detriment of general highway safety.

In addition, parking and turning provision are considered to be inadequate for the dwellings as proposed. The proposal would set a precedent for future similar developments which would likely lead to inappropriate parking detrimental to the general safety of all highway users and undermine the principle of seeking to discourage on-street parking in the locality. This would impact on the shared turning facility, and would lead to vehicles reversing onto The Street, an important secondary distributor route, which would result in an unacceptable degree of hazard for both emerging and approaching vehicles and to other highway users to the detriment of highway safety.

Overall the development would result in an unacceptable degree of hazard to all highway users to the detriment of highway safety, and contrary to the above national and local planning 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.

The application scheme proposes new dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 1100 metres from Hamford Water SAC and SPA. New housing development within the Zoi would be likely to increase the number of recreational visitors to these sites 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 completed unilateral undertaking has not been provided to secure this legal obligation. As submitted, there is no certainty that the development would not adversely affect the integrity of European Designated Sites and the application is therefore contrary to Policy PPL4 of the Adopted Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

DATED: 3rd March 2023

SIGNED:



John Pateman-Gee
Planning Manager

IMPORTANT INFORMATION :-

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

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP4 Meeting Housing Needs

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP9 Traveller Sites

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL8 Conservation Areas

PPL10 Renewable Energy Generation

CP1 Sustainable Transport and Accessibility

DI1 Infrastructure Delivery and Impact Mitigation

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 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.

Plans and Supporting Documents

The Local Planning Authority has resolved to refuse the application for the reason(s) set out above. For clarity, the refusal is based upon the consideration of the plans and supporting documents accompanying the application as follows, (accounting for any updated or amended documents):

- 21076/01 (Proposed Site Layout Plan)
- 006 (Garage Floor Plan and Elevations)
- 003 (Plot 1 - Front and Side Elevations)
- 002 (Plots 1 and 2 - Proposed First Floor Plan)
- 001 (Plots 1 and 2 - Proposed Ground Floor Plan)
- 008A (Plot 2 - Proposed Side and Rear Elevations)
- 004A (Plot 1 - Proposed Side and Rear Elevations)
- 007 (Plot 2 - Proposed Front and Side Elevations)
- 005 (Site and Block Plan)

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.