



**AGENT:** M Foley - Stanfords  
The Livestock Market  
Wyncolls Road  
Colchester  
Essex  
CO4 9HU

**APPLICANT:** B Whiting - John Whiting Ltd  
Bottles Hall  
Clacton Road  
Elmstead  
Colchester  
Essex  
CO7 7DE

## TOWN AND COUNTRY PLANNING ACT 1990

**APPLICATION NO:** 21/02173/OUT

**DATE REGISTERED:** 23rd December 2021

Proposed Development and Location of Land:

**Outline application (All Matters Reserved ) for proposed erection of 11 commercial (Use Class E, Part G) units and associated parking. Land East of Bottles Hall Clacton Road Elmstead**

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 proposal will clearly intensify the use of an existing access onto the A133 Clacton Road (a strategic route). The proposed site access and geometric layout off the A133 Clacton Road is not in accordance with current safety standards. The main function of this highway is that of carrying traffic freely and safely between centres of population. The existence of an access in this location is a matter of fact and therefore some degree of conflict and interference to the passage of through vehicles already occurs but the intensification of that conflict and interference which this proposal would engender would lead to a deterioration in the efficiency of the through road as a traffic carrier to the detriment of highway safety. The proposal is therefore contrary to Local Plan policies CP2 and SPL3 as well as paragraphs 104 (a) and (e), 110 (b) and 111 of the National Planning Policy Framework 2023.
- 2 The application has failed to demonstrate that the required visibility splays at the proposed access and along the A133 Clacton Road can be achieved within the limits of public highway and/or land in the control of the applicant. The proposal is therefore contrary to Local Plan policies CP2 and SPL3 as well as paragraphs 110 (b) and 111 of the National Planning Policy Framework 2023.
- 3 The proposed location of the site access would introduce a point of conflict with existing junctions on the south side of Clacton Road (Lanswood Park and Forres Developments) and impact on the existing designated right turn lanes for both developments and crossing facilities serving the bus stops in this location. This would lead to potential collisions for right turning vehicles and queuing back of vehicles onto the A133 Clacton Road both of which would result in an unacceptable degree of hazard to all highway users to the detriment of highway safety. The application has also failed to demonstrate that the access would be designed in accordance with the Design Manual for Roads and Bridges. The proposal is therefore contrary to Local Plan policies CP2 and SPL3 as well as paragraphs 104 (a) and (e), 110 (a), (b), (c) and (d), and 111 of the National Planning Policy Framework 2023.

- 4 The application has failed to determine, through a Stage I Road Safety Audit, the impact of the proposal on the local highway network contrary to Local Plan policies CP2 and SPL3 as well as paragraph 111 of the National Planning Policy Framework 2023.

**DATED:** 8th September 2023

**SIGNED:**




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John Pateman-Gee  
Head of Planning and Building Control

**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 2023 (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

SP3 Spatial Strategy for North Essex

SP5 Employment

SP6 Infrastructure and Connectivity

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

HP1 Improving Health and Wellbeing

HP3 Green Infrastructure

PP7 Employment Allocations

PP12 Improving Education and Skills

PP13 The Rural Economy

PPL1 Development and Flood Risk

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL7 Archaeology

PPL10 Renewable Energy Generation

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

DI1 Infrastructure Delivery and Impact Mitigation

Essex County Council Development Management Policies 2011 (the Highways SPD)

Essex County Council Car Parking Standards - Design and Good Practice

Tendring Landscape Character Assessment

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):

- o Site Plan
- o Drawing No 2168/01 Rev A - Proposed Layout
- o 2168/03 Rev A - Visibility Assessment
- o 2168/04 Rev A - Swept Path Assessment 11.2m Refuse Vehicle

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, 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.