



AGENT: Stour Valley Design
Swan Corner
Mill Lane
Bradfield
Manningtree
Essex
CO11 2UT

APPLICANT: Mr Gary Stapleton
118 Swan House
The Street
Ramsey
Harwich
Essex
CO12 5HL

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 23/00988/FUL

DATE REGISTERED: 18th July 2023

Proposed Development and Location of Land:

**Proposed detached dwelling on land adjacent to 20 Coke Street.
Land adjacent 20 Coke Street Harwich Essex**

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 Paragraph 159 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future).

Paragraph 167 of the NPPF states: When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment (FRA).

Local Plan Policy PPL1 states: All development proposals should include appropriate measures to respond to the risk of flooding on and/or off site. All development proposals will be considered against the National Planning Policy Framework's 'Sequential Test', to direct development toward sites at the lowest risk of flooding, unless they involve land specifically allocated for development on the Policies Maps or Local Maps.

Paragraph 162 of the NPPF states the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

The application site lies within Flood Zone 3 and has a high probability of flooding from rivers and the sea.

Buildings used for dwellinghouses are classified in Annex 3: Flood risk vulnerability

classification of the NPPF as 'more vulnerable'.

In view of the location of the site within Flood Zone 3 and also involving a more vulnerable use it is necessary to carry out a Sequential Test as part of the FRA, however the applicant has not applied the Sequential Test and therefore the Local Planning Authority does not have a suitable basis for assessment to be made of the flood risks arising from the proposed development.

It is considered however that the sequential test would fail as there are sites available for the construction of a single dwelling within Flood Zone 1 and outside of any identified area of surface water flood risk within Harwich and Dovercourt, and beyond.

The proposed development is therefore contrary to Adopted Policy PPL1 of the Tendring District Local Plan 2013-2033 and Beyond, the National Planning Policy Framework and Planning Policy Guidance.

- 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 200 metres from Stour and Orwell Estuaries SPA and RAMSAR. However, new housing development within the Zoi would be likely to increase the number of recreational visitors to the Stour and Orwell Estuaries; 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 adopted 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 Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Beyond Section 2 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

DATED: 12th September 2023

SIGNED:



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

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP3 Spatial Strategy for North Essex

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

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

HP5 Open Space, Sports & Recreation Facilities

PPL1 Development and Flood Risk

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation

CP1 Sustainable Transport and Accessibility

DI1 Infrastructure Delivery and Impact Mitigation

Supplementary Planning Documents

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

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):

Site Plan Scale 1:1250 produced on June 27th 2023

Drawing No. 17-2023-01P

Drawing No. 17-2023-02P

Drawing No. 17-2023-03P

Design and Access Statement

Flood Risk Assessment

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 determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.

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.