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**APPLICANT:** Mr Peter Murphy  
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## TOWN AND COUNTRY PLANNING ACT 1990

**APPLICATION NO:** 23/01315/FUL

**DATE REGISTERED:** 4th October 2023

Proposed Development and Location of Land:

**Proposed construction of 2 x 3 bedroom dwellings with associated access, parking/turning areas.**

**Land to The rear of Hill Cottages Flag Hill Great Bentley 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 UNACCEPTABLE IN PRINCIPLE

Adopted Tendring District Local Plan 2013-2033 and Beyond Section 1 Policy SP3 sets out the Council's spatial strategy for development within the district. The Council's spatial strategy focusses new development within or adjoining settlements subject to their scale, sustainability and existing role within their district and, where relevant, across the wider strategic area. Local Plan Section 2 Policy SPL1 identifies a hierarchy of settlements to where new development will be directed and Policy SPL2 defines the settlement boundaries themselves.

The application site is located over 2.5 km from the edge of the defined settlement boundary of Great Bentley and a similar distance to neighbouring settlements of Thorrington and St Osyth. In policy terms, the site is therefore located within the countryside where development is restricted to protect and enhance the character and openness of the countryside. Whilst it is recognised that there is a bus stop to the front of the site providing services to Colchester and Clacton, the site is poorly located in terms of accessibility of local services and future occupants would be reliant on their private car, therefore failing to represent sustainable development.

Given the site's location outside of any defined settlement development boundary, the site is not located in an area which is promoted as a suitable location for further housing growth, therefore being contrary to the Council's spatial strategy and in conflict with adopted Local Plan Section 1 Policies SP1 and SP3 and Section 2 Policies SPL1 and SPL2.

## 2 COASTAL PROTECTION BELT

The application site falls within the defined Coastal Protection Belt (CPB). TDLPS2 Policy PPL2 states that, within the CPB, applications will be refused unless the development has a compelling functional or operational requirement to be located in the CPB.

No evidence has been provided that the proposed development is required within the CPB. Policy PPL2 requires both the principle of location and character and appearance tests to be met. The site is in an inappropriate location for the development, and it is therefore not necessary to consider the effect of the proposal on the character and appearance of the area.

## 3 POOR DESIGN, CHARACTER & LANDSCAPE HARM

Adopted Local Plan Section 2 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Furthermore, Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings and should respect or enhance local landscape character and other locally important features. Local Plan Section 2 Policy PPL3 states that 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. Furthermore, Policy LP8(f) states that proposals for the residential development of "backland" sites must not be out of character.

The application proposes the erection of 2 no. detached, 2-storey dwellings in a "backland" position on large plots in a location characterised by road frontage, linear, terraced dwellings. The dwellings would replace a single, modest single storey holiday cabin with two large detached, 2-storey houses with an overall ridge height of approximately 7.6 metres. The excessive height and scale would be further exacerbated by the sloping site appearing prominent and harmful in the landscape.

The development constitutes poor design by failing to relate well to the site or its surroundings in terms of siting, layout, scale or appearance. The introduction of dwellings in this "backland" siting of the scale and appearance proposed, would result in overriding harm to local character and distinctiveness, contrary to the above mentioned national and local plan policies.

## 4 FAILURE TO DEMONSTRATE: HIGHWAY SAFETY

National Planning Policy Framework 2023 (NPPF) Paragraph 114 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Adopted Local Plan Section 2 Policy SPL3 Part B seeks to ensure that access to a new development site is practicable, and the highway network will be able to safely accommodate the additional traffic the proposal will generate.

The application fails to demonstrate adequate visibility splays from the proposed access in accordance with the speed of the road. The existence of an access in this location is a matter of fact. Some degree of conflict and interference to the passage of through vehicles already occurs. However, the site is currently used for a single holiday cabin. The proposed development of the site for 2 permanent dwellings would result in an intensification of the existing conflict and interference. In the absence of sufficient information to demonstrate the appropriate visibility can be achieved, the development would result in an unacceptable degree of hazard to all highway users to the detriment of

highway safety being contrary to the above-mentioned national and local plan policies.

## 5 FAILURE TO DEMONSTRATE: FOUL SEWERAGE DISPOSAL

Adopted Local Plan Section 2 Policy PPL5 states that all new development must make adequate provision for drainage and sewerage disposal. Connection to the mains is the preferred option having regard to the drainage hierarchy and building regulations requirements. However, where this is not possible, an application will need to confirm how foul sewage disposal will be dealt with in compliance with the building regulations and Environment Agency drainage hierarchy.

The application fails to provide any evidence to justify the use of a cesspool in place of other disposal methods. No information has been supplied in relation to the location of the current system, its current users, its capacity and its current maintenance and disposal plan.

The application therefore fails to comply with the above policy requirements, Building Regulations Approved Document H and Environment Agency drainage hierarchy.

## 6 FAILURE TO DEMONSTRATE: ECOLOGY IMPACTS

Adopted Tendring District Local Plan 2013-2033 and Beyond Section 2 Policy PPL4 states that, proposals for new development should be supported by appropriate ecological assessments and, where relevant, provide appropriate mitigation and biodiversity enhancements to ensure a net gain.

Insufficient ecological information has been provided and the application is contrary to the Local Plan Policy PPL4. The local planning authority are unable to assess, with certainty, the impacts on protected species, specifically Great Crested Newts, and are unable to demonstrate compliance with its statutory duties, as well as its biodiversity duty under s.40 NERC Act 2006.

**DATED:** 9<sup>th</sup> August 2024

**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 December 2023 (NPPF)  
National Planning Practice Guidance (NPPG)

#### Local:

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

HP5 Open Space, Sports and Recreation Facilities

LP1 Housing Supply  
 LP2 Housing Choice  
 LP3 Housing Density and Standards  
 LP4 Housing Layout  
 LP8 Backland Residential Development

PPL1 Development and Flood Risk  
 PPL2 Coastal Protection Belt  
 PPL3 The Rural Landscape  
 PPL4 Biodiversity and Geodiversity  
 PPL5 Water Conservation, Drainage and Sewerage  
 PPL7 Archaeology  
 PPL10 Renewable Energy Generation and Energy efficiency Measures

CP1 Sustainable Transport and Accessibility

DI1 Infrastructure Delivery and Impact Mitigation

Essex Minerals Local Plan Adopted July 2014

S8 Safeguarding mineral resources and mineral reserves  
 DM1 Development Management Criteria

Supplementary Planning Documents

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

Tendring Provision of Recreational Open Space for New Development SPD 2008

Essex Design Guide

Technical housing standards: nationally described space standard Published 27 March 2015

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

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 Agent and 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):

- 01 Amended Block Plan
- 02 Amended Part Site Layout Plan
- 03 Amended Site Plan
- 05 Amended Ground Floor Plan
- 06 Amended First Floor Plan
- 07 Amended Roof Plan
- 10 Amended Street Scene Views
- 11 Amended Site Perspectives
- 12 Amended Existing Block Plan
- 13 Visibility Splay
- P04 A Amended Location Plan
- P08 A Amended Front and Side Elevations
- P09 A Amended Rear and Side Elevations
- Foul Drainage Form received 03.11.2023
- Preliminary Ecological Appraisal and Roost Assessment dated 23.04.2024

**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.