



AGENT: Michael Smith - JCN Design and Planning
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APPLICANT: Benferri Development Ltd
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The North Colchester BIC
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CO4 9AD

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 24/00317/FUL **DATE REGISTERED:** 15th April 2024

Proposed Development and Location of Land:

**Planning Application - Erection of 40 no. two and three bedroom bungalows and associated landscaping, roads, parking and drainage infrastructure, an entrance from Thorpe Road and a new area of public open space.
South Corner Foots Farm Thorpe Road Clacton 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 application proposes 40 dwellings on undeveloped land which lies wholly outside of any settlement development boundary, where in general terms development will be the subject of strict control to protect and enhance the character and openness of the countryside. The Council has an adopted Local Plan and does not need to look beyond settlement boundaries to provide housing growth. The surrounding settlement of Clacton-on-Sea in close proximity to the site is already subject to planned growth on both allocated sites and within the defined settlement development boundary. The application site notably differs from these nearby sites as it has a strong defensible boundary formed by both Centenary Way to the South, and Thorpe Road to the East where the character starkly changes from built up residential/commercial development to open countryside, as marked by the Strategic Green Gap designation. This physical boundary affords a break between built form on the edge of the defined settlement of Clacton-on-Sea and contributes positively to the rural setting in this area. The proposed development of the application site would breach those two boundaries causing a significant physical narrowing of the gap between Clacton and Little Clacton and therefore diminish the role the Strategic Green Gap plays in maintaining separation between the two settlements.

The proposal would harm settlement pattern; the separation, setting and individual identity of Clacton and Little Clacton; the character and appearance of the countryside between Clacton and Little Clacton; and would set a harmful precedent for other development within the Strategic Green Gap to the further detriment of its role in preventing coalescence of the two settlements. The proposal is therefore contrary to the provisions of the National Planning Policy Framework (2023), Policies SP3 and SP7 of the Tendring District Local

Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1, and Policies SPL2, SPL3, PPL3, and PPL6 of the Tendring District Local Plan 2013-2033 and Beyond Section 2.

- 2 Further information is required to establish whether the location of the proposed vehicular access is acceptable. It has not therefore been demonstrated that the proposal would be acceptable in terms of highway safety, efficiency, and sustainability contrary to the provisions of the National Planning Policy Framework (2023) and Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Section 2.
- 3 The site lays within an Amber risk zone for the Great Crested Newt District Level Licensing (GCN Risk Zones (Essex)) and the site consists of suitable terrestrial habitat. The Preliminary Ecological Assessment recommends that Great Crested Newts need further assessment however this has not been submitted. The results of these surveys are required prior to determination because paragraph 99 of the ODPM Circular 06/2005 highlights that: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision." Therefore, the Local Planning Authority does not have certainty of the likely impacts to Great Crested Newt (European Protected Species) contrary to the provisions of the National Planning Policy Framework (2023) and Policy PPL4 of the Tendring District Local Plan 2013-2033 and Beyond Section 2.
- 4 The application fails to secure the required provision of affordable housing, public open space, highway works/financial contribution, and RAMS financial contribution to mitigate the impacts of the development. The proposal is therefore contrary to the provisions of the National Planning Policy Framework (2023), Policy SP2 of the Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1, Policies SPL3, LP5, HP5, PPL4, CP1 and DI1 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: 10th October 2024

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 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
- HP1 Improving Health and Wellbeing
- HP3 Green Infrastructure
- HP5 Open Space, Sports and Recreation Facilities
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- LP4 Housing Layout
- LP5 Affordable Housing
- PP12 Improving Education and Skills
- PPL1 Development and Flood Risk
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL6 Strategic Green Gaps
- PPL7 Archaeology
- PPL9 Listed Buildings
- PPL10 Renewable Energy Generation and Energy efficiency Measures
- CP1 Sustainable Transport and Accessibility
- CP2 Improving the Transport Network
- CP3 Improving the Telecommunications Network
- DI1 Infrastructure Delivery and Impact Mitigation

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
- Biodiversity Net Gain Supplementary Planning Document June 2023 (DRAFT)

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. However, the issues in reason for refusal 1 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 reasons for the refusal, approval has not been possible.

Plans and Supporting Documents

The Local Planning Authority has resolved to refuse the application for the reasons 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):

Application form

- Amended certificate received 15 April 2024
- Location Plan MA019-PL-01 rev. B
- Development Layout MA019-PL-02 rev. C

Detailed Layout MA019-PL-03 rev. B
Parking Layout MA019-PL-04 rev. C
Garden Areas Layout MA019-PL-05 rev. B
Storey Heights Layout MA019-PL-06 rev. B
Refuse Layout MA019-PL-07 rev. B
Colour of Materials Layout MA019-PL-08 rev. B
Landscape Proposals JCN/1755/23 rev. C
Type Aa, Plans and Elevations MA019-HT-Type Aa-01 rev. C
Type Ab, Plans and Elevations MA019-HT-Type Ab-02 rev. C
Type Ba, Plans and Elevations MA019-HT-Type Ba-01 rev. B
Type Ca, Plans and Elevations MA019-HT-Type Ca-01 rev. B
Type Cb, Plans and Elevations MA019-HT-Type Cb-02 rev. B
Type Da, Plans and Elevations MA019-HT-Type Da-01 rev. B
Street Elevations A, B & C MA019-ST-01 rev. A
Site Access Arrangements and visibility splays IT2126/TS/02 rev. B
Arboricultural Impact Assessment and Primary Method Statement (February 2024)
Archaeological Desk-Based Assessment (March 2020)
Biodiversity Assessment (February 2024), plus Biodiversity Metric 4.0 Calculation Tool (21 January 2024) in Excel format
Design and Access Statement (February 2024)
Energy and Sustainability Strategy (February 2024)
Flood Risk Assessment & Drainage Strategy (February 2024)
Landscape and Visual Impact Assessment (February 2024)
Phase 1 Geo-Environmental Desk Study and Preliminary Risk Assessment (December 2023)
Planning Statement (February 2024), including an affordable housing statement
Preliminary Ecological Appraisal (January 2024)
Transport Statement (February 2024)
Superfast Broadband Strategy (26 March 2024)
Ecology Note by ACJ Ecology, dated 10 June 2024
Essex County Council Highways & Transportation consultation response to application 20/01202/FUL, dated 03 February 2021
Essex County Council LLFA consultation response email and documents received 25 June 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.**
- Please ensure that you have read the latest procedural guidance for appeals prior to submitting an appeal. The latest guidance can be found at [Procedural Guide: Planning appeals – England - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/procedural-guide-to-planning-appeals)
- 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.](https://www.gov.uk/government/publications/planning-appeals)

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.