



TENDRING DISTRICT COUNCIL

Planning Services

Council Offices, Thorpe Road, Weeley, Clacton-on-Sea, Essex CO16 9AJ

AGENT:	Mr Graham Macnamara - RIBA Architect 66 Walton Road Kirby Le Soken Frinton On Sea Essex CO13 0DF	APPLICANT:	Mr Stephen Sibley - Martello Land Properties Ltd The Elms 70 Third Avenue Frinton On Sea Essex CO13 9EE
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TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 18/00179/FUL **DATE REGISTERED:** 19th February 2018

Proposed Development and Location of Land:

**New four bedroom dwelling.
Land adjacent 24 Mill Lane Walton On The Naze 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 100 of the National Planning Policy Framework states inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by (inter alia) applying the Sequential Test.

Paragraph 101 of the NPPF further states that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding, and a sequential approach should be used in areas known to be at risk from any form of flooding.

These sentiments are echoed in draft policy PPL1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017, which states that all development proposals will be considered against the National Planning Policy Framework's flood risk 'sequential test' to direct development toward sites at the lowest risk of flooding unless they involve development on land specifically allocated for development.

Saved Policy QL3 of the Adopted Tendring District Local Plan 2007 also supports this approach by stating that the Council will ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, whilst for all proposed sites within Flood Zones 2 and 3, the sequential test must be applied to demonstrate that there are no reasonably available sites in a lower flood risk area.

The site lies within tidal Flood Zone 3a, which is defined as having a high probability of flooding, is classified as a more vulnerable development and the sequential test therefore must be passed.

In this instance, the Council acknowledges further sites with extant planning permission for similar housing development, for example within Walton-on-the-Naze, at 75 Clays Road, (18/00682/FUL - 1 dwelling), 2 North Street, (18/00306/FUL - 1 dwelling) and 21 Saville Street, (17/01625/FUL - 1 dwelling). Further, at land adjacent 28 Ashlyns Road, Frinton-on-Sea (18/00428/FUL - 1 dwelling), Gladwyn House, Kirby Cross (18/00197/OUT - 1 dwelling) and Cherry Trees, Kirby-le-Soken (18/00036/FUL - 1 dwelling).

Having assessed the information submitted, officers have identified other sites in the surrounding area which could contain the development in a lower flood risk zone. The Council therefore does not agree that the sequential test requirement has been satisfied. The allocations in the emerging Local Plan, intelligence gathered in updating the SHLAA and knowledge of extant planning permissions indicates that there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding that are therefore considered sequentially preferable to the application site.

It is therefore considered that the proposal has failed the Sequential Test and the benefits of the development do not therefore outweigh the risks of flooding. The proposed residential development is therefore considered to be unacceptable and contrary to the advice contained in the NPPF, policy PPL1 of the emerging Local Plan, and Saved policy QL3 of the 2007 Adopted Local Plan.

DATED: 19th June 2018

SIGNED:

Catherine Bicknell

Catherine Bicknell
Head of Planning

IMPORTANT INFORMATION :-

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

NPPF National Planning Policy Framework

National Planning Practice Guidance

Tendring District Local Plan 2007

EN6 Biodiversity

EN6A Protected Species

HG1 Housing Provision

HG9 Private Amenity Space

HG14 Side Isolation

- QL3 Minimising and Managing Flood Risk
- QL9 Design of New Development
- QL10 Designing New Development to Meet Functional Needs
- QL11 Environmental Impacts and Compatibility of Uses
- TR1A Development Affecting Highways
- TR7 Vehicle Parking at New Development
- Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)
- CP1 Sustainable Transport and Accessibility
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL1 Development and Flood Risk
- PPL4 Biodiversity and Geodiversity
- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- 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 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.

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.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based its decision on a direction given by the Secretary of State.

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.